

# **EXHIBIT 26**

MICHAEL MCMAHON

November 17, 2016

Page 1

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

KIMBERLY COLE, ALAN COLE, ) CIVIL ACTION  
JAMES MONICA, LINDA BOYD, )  
MICHAEL MCMAHON, RAY SMINKEY, )  
JAMES MEDDERS, JUDY MEDDERS, )  
ROBERT PEPERNO, SARAH PEPERNO )  
and KELLY MCCOY, on behalf of )  
themselves and all other )  
similarly situated )  
)  
)  
versus ) NO. 13cv-07871-FLW-TJB  
)  
)  
NIBCO, INC. )

\*\*\*\*\*

ORAL DEPOSITION

MICHAEL MCMAHON

NOVEMBER 17, 2016

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ANSWERS AND ORAL DEPOSITION OF MICHAEL MCMAHON, a  
witness produced at the instance of the Defendant, was  
taken in the above-styled and numbered cause on the  
17TH day of NOVEMBER 2016, from 8:07 a.m. to 1:18 p.m.,  
before VANESSA S. ROBERTSON, CSR in and for the State  
of Texas, reported by machine shorthand, at the  
Hampton Inn & Suites, 1996 West Henderson Street,  
Cleburne, Texas, pursuant to the Texas Federal Rules of  
Civil Procedure.

MICHAEL MCMAHON

November 17, 2016

Page 2		Page 4	
1	A P P E A R A N C E S	1	* * *
2		2	E X H I B I T S
3	FOR THE PLAINTIFF:	3	DESCRIPTION PAGE
4	MR. KYLE A. SHAMBERG	4	Exhibit 11 Chuck Bondelid's Handwritten 79
5	LITE DEPALMA GREENBERG		Notes on What He Found on
6	211 WEST WACKER DRIVE	5	Pipe
7	SUITE 500	6	Exhibit 12 Mailing Receipts 86
8	CHICAGO, ILLINOIS 60606	7	Exhibit 13 List of Leaks 92
9	(312) 750-1265	8	Exhibit 14 NIBCO E-mail with Authorization 143
10	kshamberg@litedepalma.com	9	Exhibit 15 Subrogation Demand 174
11	FOR THE DEFENDANT:	10	
12	MS. RACHEL STEPHENS	11	
13	LATHROP & GAGE, LLP	12	
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15	SUITE 2200	14	
16	KANSAS CITY, MISSOURI 64108	15	
17	(816) 292-2000	16	
18	rstephens@lathropgage.com	17	
19		18	
20		19	
21		20	
22		21	
23		22	
24		23	
25		24	
		25	
1	T A B L E O F C O N T E N T S	1	P R O C E E D I N G S
2	PAGE	2	MICHAEL MCMAHON,
3	APPEARANCES . . . . . 2	3	having being first duly sworn, testified as follows:
4	MICHAEL MCMAHON	4	* * * E X A M I N A T I O N * * *
5	EXAMINATION BY MS. STEPHENS . . . . . 5	5	BY MS. STEPHENS:
6	EXAMINATION BY MR. SHAMBERG . . . . . 191	6	Q Could you state your name, please.
7	REEXAMINATION BY MS. STEPHENS . . . . . 196	7	A Mike McMahon is what I go by.
8	REEXAMINATION BY MR. SHAMBERG . . . . . 197	8	Q Okay.
9	SIGNATURE AND CHANGES . . . . . 198	9	A Michael Chester McMahon is my birth
10	REPORTER'S CERTIFICATE . . . . . 200	10	certificate.
11	* * *	11	Q Okay. Great. And, Mr. McMahon, do you
12	E X H I B I T S	12	understand that as the court reporter just read you the
13	DESCRIPTION PAGE	13	oath, that it's actually as if you're sitting in a
14	Exhibit 1 Deposition Notice 10	14	courtroom today in front of a judge and jury?
15	Exhibit 2 Second Amended Complaint 19	15	A Never done that before, but that's what it is
16	Exhibit 3 Interrogatories 59	16	like right now?
17	Exhibit 4 Insurance Claim 59	17	Q Exactly.
18	Exhibit 5 AmeriClaim Document 59	18	A Okay.
19	Exhibit 6 Cunningham Construction 62	19	Q So you've been sworn in by the court reporter
20	Invoice	20	and you have taken an oath to give me truthful answers
21	Exhibit 7 Fast Action Restoration 64	21	today, okay?
22	Invoice	22	A Okay.
23	Exhibit 8 Shanks Plumbing Services, LLC 66	23	Q Do you understand that?
24	Estimate	24	A Yes.
25	Exhibit 9 Mitchell Roofing & Remodeling 70	25	Q Now, the court reporter is going to be taking
	Estimate		
	Exhibit 10 Chuck Bondelid's Description 76		

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 6</p> <p>1 down the questions I ask of you and your answers and</p> <p>2 Kyle if he has any objections or things to say as well.</p> <p>3 So it's very important to you that -- or to everyone in</p> <p>4 this room that the transcript is very clear, so it will</p> <p>5 work best if you wait for me to finish my questions and</p> <p>6 I will also wait for you to finish your answers so we</p> <p>7 don't speak over each other. Do you understand that?</p> <p>8 A Yes.</p> <p>9 Q Okay. The other thing to remember is that</p> <p>10 the court reporter cannot take down our gestures, so if</p> <p>11 you just shake your head or nod your head, she might</p> <p>12 not be able to get that down, so I would ask that you</p> <p>13 please try to give me verbal responses, okay?</p> <p>14 A Yes.</p> <p>15 Q Now, don't be offended if I see you nod your</p> <p>16 head and I ask you a follow-up question like is that a</p> <p>17 yes, I'm just trying to make the record clear, okay?</p> <p>18 A All right.</p> <p>19 Q Another thing is if you don't understand one</p> <p>20 of my questions or you don't understand a term that I</p> <p>21 use in my questions, will you please speak up and tell</p> <p>22 me that?</p> <p>23 A Yes.</p> <p>24 Q Okay. Again, I want you to make sure if you</p> <p>25 answer a question that I ask you, I'm going to assume</p>	<p style="text-align: right;">Page 8</p> <p>1 Q -- Shamberg who is next to you --</p> <p>2 A Yes.</p> <p>3 Q -- who is your attorney today?</p> <p>4 A Yes.</p> <p>5 Q Did he show you any documents as part of that</p> <p>6 preparation?</p> <p>7 A Yes.</p> <p>8 Q Okay. And what documents were those?</p> <p>9 A It was the same ones that I've had that I</p> <p>10 sent -- that I have a copy of, and I went over them</p> <p>11 asking him questions as if I needed -- would I need to</p> <p>12 know this information, because I was trying to commit</p> <p>13 to memory, and I can't remember everything.</p> <p>14 MR. SHAMBERG: And, Mike, I'm sorry,</p> <p>15 Rachel, but, Mike, it's okay -- and you should tell her</p> <p>16 what documents you looked at and the fact that we met,</p> <p>17 but I would advise you not to tell her what we talked</p> <p>18 about.</p> <p>19 THE WITNESS: Oh.</p> <p>20 MR. SHAMBERG: Because that's</p> <p>21 privileged communications in terms of what we actually</p> <p>22 discussed, I would advise you not to get into that.</p> <p>23 THE WITNESS: Okay.</p> <p>24 Q (By Ms. Stephens) Yes, thank you for that</p> <p>25 reminder. I'm not interested nor am I entitled to the</p>
<p style="text-align: right;">Page 7</p> <p>1 that you understood that question, okay?</p> <p>2 A Okay.</p> <p>3 Q Are you taking -- I know you mentioned that</p> <p>4 you have a little bit of a heart issue, are you taking</p> <p>5 any medications or do you have anything going on in</p> <p>6 your life today that might prevent you from giving us</p> <p>7 truthful and accurate answers?</p> <p>8 A No.</p> <p>9 Q Okay. What did you do to prepare for your</p> <p>10 deposition this morning?</p> <p>11 A This morning?</p> <p>12 Q Well, the deposition is occurring this</p> <p>13 morning --</p> <p>14 A Oh.</p> <p>15 Q -- what did you do in preparation for</p> <p>16 today?</p> <p>17 A I went over some information, he helped me</p> <p>18 with information that I needed to know, so I kind of</p> <p>19 briefed myself. It was three years ago, so I had to</p> <p>20 kind of renew my memory -- my memory as best I could.</p> <p>21 I'm not going to remember everything, but I went over</p> <p>22 as much as I could so that I could answer as many</p> <p>23 questions as I can as possible.</p> <p>24 Q Okay. And by he you mean Kyle --</p> <p>25 A Kyle.</p>	<p style="text-align: right;">Page 9</p> <p>1 conversations you had with your attorney, those are</p> <p>2 privileged, so when I ask you questions about those</p> <p>3 types of things, please understand that's not what I'm</p> <p>4 after. I'm after what, you know, the documents that</p> <p>5 you looked at or the things that you know, but I'm not</p> <p>6 interested in any communications you had specifically</p> <p>7 with your attorneys in this case, okay?</p> <p>8 A Okay.</p> <p>9 Q So the documents that you looked at in</p> <p>10 preparation for your deposition today, were those the</p> <p>11 documents that you've also produced in this case?</p> <p>12 A Yes.</p> <p>13 Q Okay. So those are the ones that you gave to</p> <p>14 your attorneys and you believe at some point some of</p> <p>15 those at least got to my side of the case?</p> <p>16 A Yes.</p> <p>17 Q Okay. Did you review the interrogatory</p> <p>18 responses that you gave in this case? There were some</p> <p>19 questions, written questions, that you might have</p> <p>20 provided information to, did you review those in</p> <p>21 preparation for today?</p> <p>22 A I'm a little confused, re-ask that again.</p> <p>23 Q Okay. Do you recall as part of this lawsuit</p> <p>24 receiving a list of written questions?</p> <p>25 A That you would be asking me?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 10</p> <p>1 Q Exactly, yes.</p> <p>2 A I -- I didn't receive any specific questions,</p> <p>3 but I received your normal things like it would say</p> <p>4 please answer yes, no, don't get into any depths, you</p> <p>5 know, basic stuff I should be doing right now, that's</p> <p>6 what I remember reading.</p> <p>7 Q Okay. Did you discuss the deposition today</p> <p>8 with -- did you discuss today's deposition with anyone</p> <p>9 else other than your attorney?</p> <p>10 A No.</p> <p>11 Q Did you discuss it with any members of your</p> <p>12 family?</p> <p>13 A No.</p> <p>14 Q Did you discuss it with a plumber or a</p> <p>15 neighbor?</p> <p>16 A I don't understand that question, because in</p> <p>17 the past I've obviously talked to my plumber.</p> <p>18 Q Well, you talked to that plumber about</p> <p>19 today's deposition?</p> <p>20 A Oh, no, no.</p> <p>21 Q Okay.</p> <p>22 A No, about today's -- no, they don't know I'm</p> <p>23 here.</p> <p>24 Q Okay.</p> <p>25 (Exhibit No. 1 was marked.)</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. Do you know any of the other people</p> <p>2 whose names are listed?</p> <p>3 A No.</p> <p>4 Q Okay. So you don't know any of them</p> <p>5 personally or otherwise?</p> <p>6 A No.</p> <p>7 Q Okay. Do you see below that it says, NIBCO,</p> <p>8 Inc. and then it says defendant?</p> <p>9 A Yes.</p> <p>10 Q Now, I represent NIBCO and that's how I'll be</p> <p>11 referring my client today, I'm just calling them NIBCO.</p> <p>12 Do you understand that?</p> <p>13 A Yes.</p> <p>14 Q Okay. Do you generally know the allegations</p> <p>15 that you've made against NIBCO in this lawsuit?</p> <p>16 A Yes.</p> <p>17 Q Okay. What are those?</p> <p>18 A That I'm having -- I had problems with the</p> <p>19 plumbing leaks and damage to my house.</p> <p>20 Q Okay. Do you know what type of plumbing in</p> <p>21 your house that you have, other than the fact that you</p> <p>22 believe it's made by NIBCO?</p> <p>23 A That's all I know that it's NIBCO plumbing.</p> <p>24 Q Do you know what kind of material it's made</p> <p>25 out of?</p>
<p style="text-align: right;">Page 11</p> <p>1 Q (By Ms. Stephens) I'm going to hand you</p> <p>2 what's previously been marked Exhibit 1. You see the</p> <p>3 sticker there at the bottom?</p> <p>4 A Uh-huh.</p> <p>5 Q And I'm going to -- have you ever seen that</p> <p>6 document before, sir?</p> <p>7 A Oh, yes.</p> <p>8 Q Okay. And this is -- if you -- do you agree</p> <p>9 with me this is just -- it says Defendant's Amended</p> <p>10 Notice of Deposition of Michael McMahon --</p> <p>11 A Yes.</p> <p>12 Q -- at the top?</p> <p>13 And you're Michael McMahon, of</p> <p>14 course?</p> <p>15 A Yes, I am.</p> <p>16 Q And today is November 17th, 2016 and we're</p> <p>17 sitting here at the Hampton Inn in Cleburne?</p> <p>18 A Yes.</p> <p>19 Q Okay. Now, at the top of this Exhibit 1, do</p> <p>20 you see a bunch of names and underneath it says</p> <p>21 plaintiffs?</p> <p>22 A Yes.</p> <p>23 Q Okay. And do you see your name listed</p> <p>24 there?</p> <p>25 A Oh, yes, okay.</p>	<p style="text-align: right;">Page 13</p> <p>1 A I believe the word is PEX.</p> <p>2 Q Okay. Now, I'm going to use the term PEX</p> <p>3 today?</p> <p>4 A Okay.</p> <p>5 Q And it refers to generally a material that</p> <p>6 plumbing is made out of, okay? Do you understand that,</p> <p>7 it's like a plastic?</p> <p>8 A Yes.</p> <p>9 Q Okay. Now, do you understand that PEX is</p> <p>10 not -- NIBCO makes PEX tubing but it also -- PEX is</p> <p>11 also made by other manufacturers. Do you understand</p> <p>12 that?</p> <p>13 A Yes.</p> <p>14 Q Okay. So I might ask you questions about PEX</p> <p>15 in general or in -- but if I'm specifically referring</p> <p>16 to NIBCO, I'm going to try to specify NIBCO PEX. Do</p> <p>17 you understand that?</p> <p>18 A Yes.</p> <p>19 Q Okay. Do you understand what your role is in</p> <p>20 this lawsuit as a plaintiff?</p> <p>21 A Yes, I'm part of a class of other people who</p> <p>22 have had the same problems with the PEX piping, and I</p> <p>23 guess we are all together representing the situation</p> <p>24 that we're all under.</p> <p>25 Q Okay.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 14</p> <p>1 A The problems with the product.</p> <p>2 Q Okay. Do you know personally any other</p> <p>3 people who have had issues with NIBCO plumbing in their</p> <p>4 house?</p> <p>5 A No.</p> <p>6 Q Okay. So as far as you're aware of -- for</p> <p>7 instance, you don't have a neighbor that you've talked</p> <p>8 to that's had the same issue?</p> <p>9 A No.</p> <p>10 Q Okay. How did you become involved in this</p> <p>11 particular lawsuit?</p> <p>12 A I was on a computer researching after three</p> <p>13 water leaks and the plumber himself telling me I had a</p> <p>14 problem, I started -- looked up the word NIBCO and I</p> <p>15 remember seeing that there was problems with it and</p> <p>16 that I came across the class action lawsuit and the</p> <p>17 lawyers names and so I contacted them to find out what</p> <p>18 was going on.</p> <p>19 Q And what lawyers names was that, was it the</p> <p>20 current --</p> <p>21 A The first one I talked to, there's two Joe's</p> <p>22 there, I don't remember which one.</p> <p>23 Q You said two Joe's?</p> <p>24 A Yeah, there's two Joe's, Joseph. If I had a</p> <p>25 list I could probably tell you.</p>	<p style="text-align: right;">Page 16</p> <p>1 same situation, he says that there is a problem with</p> <p>2 this, you need to look into it.</p> <p>3 Q What plumber was that?</p> <p>4 A The first one D D's.</p> <p>5 Q D D's. Is that a man by the name of Charles,</p> <p>6 does that sound familiar to you?</p> <p>7 A It's been three years ago, I'm sorry, I don't</p> <p>8 remember his name.</p> <p>9 Q Okay.</p> <p>10 A But he was basically the owner and the only</p> <p>11 person.</p> <p>12 Q Did he tell you what brand of plumbing was in</p> <p>13 your house?</p> <p>14 A Yes, the name was on the piping.</p> <p>15 Q Okay. As part of being a plaintiff in this</p> <p>16 lawsuit, did you sign any sort of engagement letter or</p> <p>17 retention agreement with class counsel?</p> <p>18 A I don't recall, but I would think I did.</p> <p>19 Q Okay. Do you remember the terms of that</p> <p>20 agreement?</p> <p>21 A Not verbatim, but yes, I remember reading</p> <p>22 it.</p> <p>23 Q Okay. Does it promise you any sort of reward</p> <p>24 or bonus based on the outcome of this lawsuit?</p> <p>25 A Award or bonus? I'm not sure what you mean</p>
<p style="text-align: right;">Page 15</p> <p>1 Q No problem. Will you look on the last page</p> <p>2 of Exhibit 1 and tell me if you recognize any of those</p> <p>3 names, other than hopefully -- Kyle's name is actually</p> <p>4 not on here.</p> <p>5 MR. SHAMBERG: No credit.</p> <p>6 A Sauder, I can't -- it seemed like it's Joe</p> <p>7 Sauder, Joseph Sauder.</p> <p>8 Q (By Ms. Stephens) So it might have been Joe</p> <p>9 Sauder and maybe also Joe Kenney, that's another Joe at</p> <p>10 least possible? You think it's probably that law firm</p> <p>11 or someone related to that --</p> <p>12 A Yes, it is this law firm, but it was -- I</p> <p>13 believe I actually communicated with Joe, Joseph</p> <p>14 Sauder.</p> <p>15 Q Do you recall, when you did this internet</p> <p>16 research, what websites you were looking at?</p> <p>17 A No, ma'am. I just Googled it and, you know,</p> <p>18 several things popped up.</p> <p>19 Q Okay. Was it like a blog, was it a forum,</p> <p>20 what kind of website was it, do you know?</p> <p>21 A I'm not computer literate, I'm sorry.</p> <p>22 Q No problem. After you found this</p> <p>23 information, you said you also talked to your plumber</p> <p>24 who -- what did your plumber suggest to you?</p> <p>25 A After the third trip out there to repair the</p>	<p style="text-align: right;">Page 17</p> <p>1 by that.</p> <p>2 Q Okay. Well, let's say that there's an</p> <p>3 outcome, this goes to trial and the plaintiffs win some</p> <p>4 money, does your agreement with class counsel entitle</p> <p>5 you to any -- you, as in Mr. Michael McMahon, any sort</p> <p>6 of award or bonus on top of whatever you might recover</p> <p>7 in the lawsuit? Did they say, hey, we'll give you</p> <p>8 5,000?</p> <p>9 A No.</p> <p>10 Q Okay. Anything else like that sound familiar</p> <p>11 that you've been promised?</p> <p>12 A No.</p> <p>13 Q As a class representative, you understand</p> <p>14 what that term means, class representative?</p> <p>15 A I believe it means we're all in this</p> <p>16 together, you know, as a class.</p> <p>17 Q Well, when I use that term today, what I'm</p> <p>18 referring you as a class representative, because you</p> <p>19 are what I call a named plaintiff in this case.</p> <p>20 A Okay.</p> <p>21 Q We don't know who the other members of the</p> <p>22 class might be, but we know your name, okay?</p> <p>23 A Okay.</p> <p>24 Q So I'm going to refer to you as a class</p> <p>25 representative.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 18</p> <p>1 A Okay.</p> <p>2 Q Okay. As part of this lawsuit, in your role</p> <p>3 as a class representative, what have you done?</p> <p>4 A What have I done? I've sought counsel from</p> <p>5 the lawyers, because I didn't know what to do.</p> <p>6 Q Okay. Have you reviewed what I would call a</p> <p>7 complaint in this lawsuit, have you ever looked at</p> <p>8 that?</p> <p>9 A I'm not sure about that question, because</p> <p>10 complaint from other people, from myself or --</p> <p>11 Q I'm talking about something that counsel</p> <p>12 filed in court, and it's called a complaint, and it</p> <p>13 outlines the allegation in this lawsuit, did you ever</p> <p>14 review anything like that?</p> <p>15 A In my mind, I believe I did, but I cannot say</p> <p>16 yes or no definitely.</p> <p>17 Q Do you know when, like what year you first</p> <p>18 contacted counsel regarding the leaks in your home?</p> <p>19 A Well, that's one reason I can't remember some</p> <p>20 of these things, because it's been at least three</p> <p>21 years.</p> <p>22 Q Okay. Can you -- was it in 2013?</p> <p>23 A It was like December 20 -- I think it was</p> <p>24 December or January 2013.</p> <p>25 Q All right. So there's a big difference</p>	<p style="text-align: right;">Page 20</p> <p>1 I've already marked No. 2.</p> <p>2 A So should I just set this one out of the way?</p> <p>3 Q Yeah.</p> <p>4 A Wow.</p> <p>5 Q Now, Exhibit 2, have you ever seen this</p> <p>6 document before? It's entitled Second Amended Class</p> <p>7 Action Complaint in the caption, have you ever seen</p> <p>8 this before?</p> <p>9 A No.</p> <p>10 Q Okay. I'm going to direct your attention to</p> <p>11 Page 12 of Exhibit 2. And if you'll look there,</p> <p>12 starting with paragraph -- do you see your name Michael</p> <p>13 McMahon there?</p> <p>14 A Yes, I see it.</p> <p>15 Q And starting with Paragraph 56 and then I</p> <p>16 believe it ends at Paragraph 66, your section on the</p> <p>17 next page, can you just at least review those</p> <p>18 paragraphs and then I'll start asking you some</p> <p>19 questions.</p> <p>20 A Okay.</p> <p>21 Q Do Paragraphs 56 through Paragraph 66 of</p> <p>22 Exhibit 2 look familiar to you?</p> <p>23 A 56 through 66?</p> <p>24 Q 66, yeah.</p> <p>25 A I recognize all of this, yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 between December and January '13, that's --</p> <p>2 A Oh, that's right.</p> <p>3 Q -- like a whole year.</p> <p>4 A This started three years ago, so I would have</p> <p>5 to say '13.</p> <p>6 Q So probably December 2013, January 2014,</p> <p>7 somewhere around there?</p> <p>8 A Yes.</p> <p>9 Q Okay. So -- again, I'm not asking you to</p> <p>10 tell me what you and your counsel discussed, but maybe</p> <p>11 they've sent you some things to review and you might</p> <p>12 have looked at those on occasion?</p> <p>13 A Yes.</p> <p>14 Q Okay. Do you use a computer normally?</p> <p>15 A Yes, not -- normally not often.</p> <p>16 Q Okay. Do you E-mail?</p> <p>17 A Yes, I know how to E-mail.</p> <p>18 Q Okay. And when you're communicating with</p> <p>19 counsel, is it usually through E-mail or do you receive</p> <p>20 things in the mail?</p> <p>21 A I receive things E-mail and then they have my</p> <p>22 phone number if they need to call me.</p> <p>23 Q Okay.</p> <p>24 (Exhibit No. 2 was marked.)</p> <p>25 Q (By Ms. Stephens) I'm going to show you what</p>	<p style="text-align: right;">Page 21</p> <p>1 Q Okay. So you think you reviewed those</p> <p>2 paragraphs at some point related to this lawsuit?</p> <p>3 A Everything in here has been talked about. It</p> <p>4 was actually -- actually reading this -- the first time</p> <p>5 I seen it was this morning.</p> <p>6 Q Okay. So you think some of the information</p> <p>7 in it is familiar to you, but the first you've</p> <p>8 physically seen these paragraphs written out like this</p> <p>9 is this morning?</p> <p>10 A If I have read this, I have forgotten when I</p> <p>11 read it. All of this information has been covered, but</p> <p>12 I do not recall reading this exactly like I'm reading</p> <p>13 it right now.</p> <p>14 Q Okay.</p> <p>15 A I do see a couple of items in here that I'm</p> <p>16 not sure of. I don't remember if I read them, why I</p> <p>17 didn't say something, because they're not exactly as</p> <p>18 the way I remember it.</p> <p>19 Q Okay. Can you -- which items are those?</p> <p>20 A It says that the NIBCO PEX plumbing --</p> <p>21 tubing, I'm sorry.</p> <p>22 Q Which paragraph are you referring to?</p> <p>23 A 59.</p> <p>24 Q Okay.</p> <p>25 A I do know it was NIBCO PEX tubing. I do not</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 22</p> <p>1 know if it was NIBCO PEX fittings or NIBCO clamps, I  2 don't have that information. I believe the inspectors  3 came out and examined it and they would know that  4 information.  5 Q Okay.  6 A And on 65?  7 Q Yes.  8 A Following the second water loss --  9 Q Uh-huh.  10 A -- plaintiff McMahon provided NIBCO, that's  11 right there?  12 Q Yes, I see that.  13 A I believe I had had a third leak before I  14 called them, that date is real close to -- the 30th is  15 real close to the time that I called. I don't have the  16 exact dates in my head.  17 Q Okay. Is there anything else in those  18 Paragraphs 56 through 66 that you would like to clarify  19 before we continue?  20 A No.  21 Q Thank you, sir. Let's back up. Mr. McMahon,  22 well, why don't you state your address for the  23 record?  24 A 5101 Dusty Trail, Rio Vista, Texas. Zip  25 code?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Yes.  2 Q What year?  3 A '67.  4 Q Okay. And after high school, what did you  5 do? Did you go to a school or did you join the  6 military?  7 A College for one semester before -- I was  8 fixing to be drafted and then I joined the military.  9 Q Okay. Did you go to Vietnam?  10 A No, I went to the Navy.  11 Q Into the Navy. Okay. Wonderful. And as  12 part of -- after your military service, what did you do  13 after that?  14 A Retired.  15 Q Retired from the military?  16 A I have 37 years.  17 Q Okay.  18 A My whole -- basically my whole working career  19 was in the military.  20 Q Okay. Wonderful. What was the highest rank  21 that you achieved?  22 A E-8.  23 Q What does that mean?  24 A I was a senior master sergeant in the Air  25 Force.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q That's fine.  2 A All right.  3 Q Thank you. How long have you lived at that  4 address?  5 A It's been about four years.  6 Q Where did you live before you moved into that  7 house in Rio Vista -- I'm going to call it the house on  8 Dusty Trail?  9 A I lived on Dove Circle in Grand Prairie,  10 Texas.  11 Q Okay. How long did you live there?  12 A 10 years.  13 Q Okay. How did -- where did you live before  14 you lived in Grand Prairie, Texas?  15 A Alvarado, Texas, over here.  16 Q Okay. So you -- how long have you lived in  17 Texas, your whole life?  18 A I was in the military, so I have been -- I've  19 been in New Orleans.  20 Q Okay. So other when you perhaps were moving  21 around related to your military service, you've been a  22 resident of Texas?  23 A Yes.  24 Q Okay. What year -- did you graduate from  25 high school?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q Wonderful. Are you a pilot?  2 A No, I worked in the flight simulator during  3 my last part, and I could fly an airplane, but I wasn't  4 allowed to, you have got to be an officer.  5 Q Okay. I believe -- I apologize for bringing  6 this up, but I believe you teach some sort of radar  7 training, is that -- something like that? No?  8 MR. SHAMBERG: Different client.  9 MS. STEPHENS: That's a different  10 client, I apologize.  11 A I was aircraft electrician.  12 Q (By Ms. Stephens) Gotcha. Wonderful. So  13 what year did you retire from the military?  14 A 2003.  15 Q Okay. You've been retired ever since then,  16 no job as far as a regular job, other than being  17 retired from the military?  18 A No hiring job.  19 Q Okay.  20 A I've done volunteer work and nine grandkids  21 and things around the house, so I'm busy.  22 Q Well, if you have nine grandkids, that seems  23 like a full-time job.  24 A Yes.  25 Q My parents have two grandkids and they can</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 26</p> <p>1 barely keep up, so I applaud you, sir.</p> <p>2 Are you married?</p> <p>3 A Yes.</p> <p>4 Q And what's the name of your wife?</p> <p>5 A Lou, L-O-U.</p> <p>6 Q Does she also live with you in the house on</p> <p>7 Dusty Trail?</p> <p>8 A Yes.</p> <p>9 Q And how many kids do you have?</p> <p>10 A Three adults, children now.</p> <p>11 Q And then nine grandkids you said?</p> <p>12 A Yes.</p> <p>13 Q Wonderful. I'm going to refer to the</p> <p>14 allegations, kind of follow them in the second amended</p> <p>15 complaint that's Exhibit 2 there, okay?</p> <p>16 A Okay.</p> <p>17 Q Now, it says in Paragraph 57, Construction of</p> <p>18 plaintiff McMahon's home in Rio Vista, Texas began in</p> <p>19 early 2007 and was substantially completed in August</p> <p>20 2007.</p> <p>21 A I think.</p> <p>22 Q What's the basis of that information, how do</p> <p>23 you know that?</p> <p>24 A Talked to the previous owner. I believe the</p> <p>25 house was being built in 2007 and completed in 2008, so</p>	<p style="text-align: right;">Page 28</p> <p>1 friend of Rob Wards. Rob liked the house and asked to</p> <p>2 buy it and he purchased the home.</p> <p>3 Q Okay.</p> <p>4 A Approximately one year after he built it.</p> <p>5 Q And so when did -- and so you, I believe,</p> <p>6 moved into the house in 2013; is that correct?</p> <p>7 A Yes.</p> <p>8 Q Okay. January 1, 2013?</p> <p>9 A We purchased the house the end of December</p> <p>10 and moved in the 3rd or 4th of January 2013.</p> <p>11 Q So you believe Mr. Ward lived in the house</p> <p>12 from maybe 2009 to 2013 until you moved in?</p> <p>13 A Yes.</p> <p>14 Q Okay. So for the purposes of the information</p> <p>15 in Paragraph 57, you talked to Mr. Ward and got that</p> <p>16 information?</p> <p>17 A Yes.</p> <p>18 Q So would Mr. Ward also know the name of the</p> <p>19 person who built the house?</p> <p>20 A Yes.</p> <p>21 Q When you were buying the house from</p> <p>22 Mr. Ward -- why did you buy the house from him, what</p> <p>23 did you like about it?</p> <p>24 A The location and the house itself and, of</p> <p>25 course, the view out the back.</p>
<p style="text-align: right;">Page 27</p> <p>1 that August 2007 I'm not sure is correct.</p> <p>2 Q And was the previous owner -- what's the</p> <p>3 previous owner's name?</p> <p>4 A Robert Ward, W-A-R-D.</p> <p>5 Q Do you know if Mr. Ward was the only previous</p> <p>6 owner of the home?</p> <p>7 A No, the previous owner was the man who built</p> <p>8 the house.</p> <p>9 Q And who built the house, what's his name?</p> <p>10 A That, I do not know. I can get that</p> <p>11 information.</p> <p>12 Q Okay. And how can you get that information,</p> <p>13 who would know that?</p> <p>14 A My wife. It's written down. She -- I don't</p> <p>15 remember the name she mentioned, but it's written down</p> <p>16 and I can get that for you.</p> <p>17 Q Okay.</p> <p>18 A Robert Ward gave us that information.</p> <p>19 Q Sure. So to your knowledge, the owner before</p> <p>20 Mr. Ward is the one who built the house --</p> <p>21 A Yes.</p> <p>22 Q -- is that correct?</p> <p>23 When did Mr. Ward buy the house?</p> <p>24 A I believe the owner and the person who lived</p> <p>25 in it was there for about one year. He was a personal</p>	<p style="text-align: right;">Page 29</p> <p>1 Q Okay. Can you describe generally for me the</p> <p>2 house itself, like how many stories does it have?</p> <p>3 A It's three stories, large garage. The garage</p> <p>4 takes up the whole bottom floor almost, three-fourths</p> <p>5 of the bottom floor. The second floor, off to the side</p> <p>6 is a bedroom with a full bath. The top floor is a</p> <p>7 living area, it has two bedrooms, two and a half baths,</p> <p>8 kitchen, dining room, everything is up -- everything we</p> <p>9 do is upstairs on the third floor. The second floor is</p> <p>10 for the grandkids when they come. The garage is for</p> <p>11 all of my stuff, so...</p> <p>12 Q You like to tinker around in your garage?</p> <p>13 A Yes.</p> <p>14 Q How many bedrooms does it have?</p> <p>15 A Three bedrooms.</p> <p>16 Q And how many bathrooms?</p> <p>17 A Let's see, three and one half.</p> <p>18 Q Okay. In addition to the normal plumbing</p> <p>19 system that serves the toilets and the sinks and things</p> <p>20 like that, do you have any radiant heat in the house?</p> <p>21 Do you know what that means, like heated floors?</p> <p>22 A Oh, no.</p> <p>23 Q Okay. Now, in Paragraph 58 there in Exhibit</p> <p>24 2, again, it has some information and the first</p> <p>25 sentence says, On or about May 2007, the installation</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 30</p> <p>1 of a residential plumbing system began with plaintiff  2 McMahaon's home located in Rio Vista, Texas. What is  3 the basis of that information?  4 A From Mr. Ward.  5 Q Okay. And his basis of that information is  6 from the previous owner?  7 A Previous owner.  8 Q Okay. Do you know who installed the  9 residential plumbing system in your home?  10 A No, Mr. Ward said that the builder contracted  11 out most of his work.  12 Q Okay. And what's the name -- who was the  13 name of the builder of the house?  14 A I do not know.  15 Q Who would know that information?  16 A Mr. Ward. I can get that name for you  17 because he gave me their number, of the man's name and  18 number and I can provide that to you, but I don't have  19 it right now.  20 Q Okay.  21 A I could contact my wife and she could text me  22 back the name and number, if you need that today.  23 Q I would like that today, at a break I would  24 like you to do that, please.  25 A Okay.</p>	<p style="text-align: right;">Page 32</p> <p>1 Presumably you know that there's a hot water line in  2 your home; is that correct?  3 A Yes.  4 Q And it says, Water was supplied to his home  5 from a local municipally treated water source. Is that  6 still true?  7 A Yes.  8 Q Okay. What municipality sources your -- the  9 water in your home?  10 A I don't remember their names. Again, I can  11 get that for you.  12 Q It's some sort of utility local to this  13 area?  14 A It's a local water treatment company. It's a  15 county type water source.  16 Q Thank you. When you bought the house on  17 Dusty Trail from Mr. Ward, as part of the purchasing  18 process, did he tell you anything about the plumbing  19 system in the home?  20 A No.  21 Q Did he ever tell you that the plumbing system  22 was -- used PEX tubing?  23 A No.  24 Q Did he ever tell you that the plumbing system  25 had NIBCO PEX tubing in it?</p>
<p style="text-align: right;">Page 31</p> <p>1 Q Because this might be my only opportunity to  2 talk to you before the trial in this case, okay?  3 A Okay.  4 Q So I would like the most complete information  5 that I can get.  6 A Sure.  7 Q So we will do that at a break. I appreciate  8 that. Thank you.  9 So you don't know who built the  10 house, and so presumably you also don't know who  11 installed the plumbing; is that correct?  12 A No.  13 Q You believe that the builder of the house  14 subcontracted out that work?  15 A Yes.  16 Q The second sentence of Paragraph 58 says,  17 Installation of the plumbing system was substantially  18 completed in July of 2007. Is the basis of that  19 sentence also what you learned from Mr. Ward?  20 A Yes.  21 Q Okay. And presumably he learned that  22 information from the previous owner?  23 A Yes.  24 Q Okay. And then it says, A hot water line was  25 installed as part of the residential plumbing system.</p>	<p style="text-align: right;">Page 33</p> <p>1 A No.  2 Q Did he tell you what kind of fittings the  3 tubing system had?  4 A No.  5 Q Did he tell you whether there were brass  6 fittings or plastic fittings or anything like that?  7 A No.  8 Q Okay. When did you first learn what kind of  9 plumbing there was in your home on Dusty Trail?  10 A After the plumber -- the first water leak  11 that I was called out on, he was called out on by my --  12 I have Home Shield, and when we have a problem, you  13 call them, they pick the plumber. The plumber just  14 shows up. I have no pick or choice of the plumber. He  15 showed up. He repaired it. The piece of pipe he took  16 out had NIBCO's name on it.  17 Q Okay. Had you ever heard of NIBCO before  18 that moment?  19 A No.  20 Q In the previous homes that you had owned,  21 were you aware of what kind of plumbing systems you had  22 in those homes?  23 A No.  24 Q Okay. So you don't know whether you had  25 copper or PEX tubing or anything like that?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 34</p> <p>1 A I had PEX in my last home. It was built by 2 Fox &amp; Jacobs, the one that we lived in for 10 years 3 prior to moving. 4 Q To Rio Vista? 5 A To Rio Vista from Grand Prairie. 6 Q Okay. So your home in Grand Prairie had PEX 7 plumbing? 8 A Yes. 9 Q Okay. How do you know that? 10 A Before we bought the house, they went through 11 the construction of it, how they built it, what they 12 used, insulation values, and they assured me there was 13 no brass or copper piping and that they used a PEX. 14 Q And what was the name of the builder? 15 A Fox &amp; Jacobs. 16 Q Did you guys essentially buy that home? 17 A Yes. 18 Q Like you picked some of the details of the 19 home and they built it for you? 20 A Yes. 21 Q Okay. And as part of that design process 22 I'll call it, they told you about what materials they 23 were going to use in various parts of the home? 24 A Yes. 25 Q Okay. And they told you we're going to use</p>	<p style="text-align: right;">Page 36</p> <p>1 A Grand Prairie, 75052. 2 Q When you were told by Fox &amp; Jacobs about PEX 3 that they were going to use in your Grand Prairie 4 house, did PEX mean anything to you or did they -- or 5 did that just -- is that the first you had ever heard 6 of it? 7 A I remember them telling me it was a plastic 8 type product. 9 Q Okay. What did they explain to you was -- 10 were the positives of PEX? 11 A Long lasting without -- they haven't had any 12 problems that I knew of or they mentioned to me. 13 Q And that house was built in approximately 14 what year? 15 A Let's see, I'm doing the math in my head. 16 Forgive me while I'm thinking about this. 17 Q That's okay. Take your time. 18 A Okay. Four years ago we moved out and we 19 lived in it for 10 years, so 14 years ago, whatever 20 that date would be. 21 Q About 2002? 22 A I would say yes, 2002. 23 Q So 2001, 2002, some time in there -- 24 A Yes. 25 Q -- your previous Grand Prairie house was</p>
<p style="text-align: right;">Page 35</p> <p>1 PEX tubing, not copper; is that correct? 2 A Yes. 3 Q Okay. Did you specify you wanted PEX or is 4 that something they just told you? 5 A They just told me that's what they used. 6 Q Okay. Do you know why they assured you that 7 they were not using copper? 8 A At that time there was problems with copper 9 and brass. I think it had something to do with lead. 10 Q Do you know what brand of PEX tubing you had 11 in your Grand Prairie home? 12 A No. 13 Q Did you ever have any leaks in that tubing? 14 A No. 15 Q Okay. So in your plumbing system in Grand 16 Prairie, you never had any leaks or issues like that? 17 A No. 18 Q And you said you lived in that house for 10 19 years? 20 A Yes. 21 Q Okay. Can you give me the address of that 22 house, please? 23 A Dove Circle, I do not remember the number, 24 I'm sorry. 25 Q That's okay. Thank you.</p>	<p style="text-align: right;">Page 37</p> <p>1 built and it included PEX tubing; is that correct? 2 A The word PEX, I do not recall. They told me 3 it was a plastic type product, and the only thing they 4 were having at that time I'm -- was PEX. I mean, 5 that's all they made, I believe. 6 Q Did they tell you what kind of fittings they 7 were going to use, like what material? 8 A No. 9 Q Okay. So you don't know whether it had brass 10 fittings or plastic fittings, for instance? 11 A No. 12 Q Okay. So when was the first you learned that 13 your house on Dusty Trail had PEX tubing in it? 14 A Before building it. 15 Q Before building it? 16 A They told me that -- 17 Q I'm talking about your current house. 18 A Oh, I'm sorry. I thought you -- 19 Q That's okay. 20 A I'm sorry. 21 Q I switched gears on you. 22 A I was thinking Dove Circle. I apologize. 23 After the first call from the plumber. 24 Q So the same time that you learned that it was 25 NIBCO PEX, that's when you had first found out you had</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 38</p> <p>1 PEX in your home?</p> <p>2 A Yes.</p> <p>3 Q Okay. When he told you you had PEX in your</p> <p>4 home, did that mean anything to you based on your</p> <p>5 previous house?</p> <p>6 A No.</p> <p>7 Q Okay. Was the plumbing a consideration in</p> <p>8 buying the house on Dusty Trail?</p> <p>9 A No.</p> <p>10 Q So that's not something you asked about</p> <p>11 during the inspection process?</p> <p>12 A No, the house was inspected before purchasing</p> <p>13 and I never got a negative feedback from what was in</p> <p>14 the house.</p> <p>15 Q But, for instance, you didn't ask -- so your</p> <p>16 previous house they told you, hey, we have got PEX, not</p> <p>17 copper, you believe because there was some lead issues</p> <p>18 regarding copper, correct?</p> <p>19 A Yes.</p> <p>20 Q So you didn't -- when you bought this new</p> <p>21 house ask what kind of plumbing it had?</p> <p>22 A No.</p> <p>23 Q All right. If we jump down to Paragraph 59</p> <p>24 in Exhibit 2, this is the paragraph you clarified</p> <p>25 earlier. It states, Plaintiff McMahon's residential</p>	<p style="text-align: right;">Page 40</p> <p>1 A Yes.</p> <p>2 Q Recently; is that correct?</p> <p>3 A No, when it was purchased.</p> <p>4 Q Okay. There was an inspection of your home</p> <p>5 when it was purchased?</p> <p>6 A Yes.</p> <p>7 Q Well, previously when you clarified Paragraph</p> <p>8 59 to me, you mentioned that there was some sort of</p> <p>9 inspection where it turns out that maybe there weren't</p> <p>10 NIBCO fittings or NIBCO clamps in your house, is that</p> <p>11 true?</p> <p>12 A No.</p> <p>13 Q Okay. Well, what did you mean -- why do you</p> <p>14 believe that 59 might be wrong now?</p> <p>15 A The only thing I knew that it had NIBCO</p> <p>16 tubing, the piping, that's all I knew that was NIBCO.</p> <p>17 I did not know the fittings or the clamps who made them</p> <p>18 at that time.</p> <p>19 Q Okay. Do you know today who made the</p> <p>20 fittings and the clamps that were installed in your</p> <p>21 house before the repiping?</p> <p>22 A I would have to say no.</p> <p>23 Q Okay.</p> <p>24 A The inspectors.</p> <p>25 Q Would you defer to the people who actually</p>
<p style="text-align: right;">Page 39</p> <p>1 plumbing system was installed using NIBCO plumbing</p> <p>2 accessories, including NIBCO PEX tubing, NIBCO PEX</p> <p>3 fittings, NIBCO PEX clamps and other installation</p> <p>4 accessories. And you clarified previously during your</p> <p>5 deposition that you believe you're not certain whether</p> <p>6 you have NIBCO PEX fittings and NIBCO clamps in your</p> <p>7 home; is that correct?</p> <p>8 A Yes.</p> <p>9 Q Okay. And when I say in your home, I</p> <p>10 believe -- has your -- the plumbing system in your home</p> <p>11 been repiped?</p> <p>12 A Since then?</p> <p>13 Q Yes.</p> <p>14 A Yes.</p> <p>15 Q Okay. So I guess we're talking about the</p> <p>16 time period between when you moved in and when --</p> <p>17 before the repipe, okay, does that make sense?</p> <p>18 A Yes.</p> <p>19 Q So would you defer to the findings of the</p> <p>20 inspection on what kind of fittings and what kind of</p> <p>21 clamps were installed in your home, whether they were</p> <p>22 NIBCO or otherwise?</p> <p>23 A I'm sorry, repeat that question.</p> <p>24 Q Okay. You said that there was an inspection</p> <p>25 of your home?</p>	<p style="text-align: right;">Page 41</p> <p>1 looked at the plumbing --</p> <p>2 A Yes.</p> <p>3 Q -- in your home?</p> <p>4 Thank you. Paragraph 60 says,</p> <p>5 Licensed professional contractors were hired to install</p> <p>6 the plumbing system in plaintiff McMahon's home. Do</p> <p>7 you see that?</p> <p>8 A Yes.</p> <p>9 Q How do you know that a licensed professional</p> <p>10 contractor installed the plumbing system in your Dusty</p> <p>11 Trail home?</p> <p>12 A When they came out to repair and when I went</p> <p>13 back to them to -- for the house replumbing,</p> <p>14 Shanks/Rick's Plumbing owns -- wanted the same. They</p> <p>15 had their license and everything. They had to show it</p> <p>16 to me before they started working on my house.</p> <p>17 Q Okay. Let's back up. You're saying that</p> <p>18 Shanks, who repiped your house, is a licensed plumber;</p> <p>19 is that correct?</p> <p>20 A Yes.</p> <p>21 Q I believe Paragraph 60 is referring to who</p> <p>22 installed the original plumbing system in your home on</p> <p>23 Dusty Trail or is that not correct?</p> <p>24 A Okay. To me, that's misleading, because the</p> <p>25 plumbing was already there when I moved in. I did not</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 42</p> <p>1 have any contractors install plumbing until all of the</p> <p>2 PEX was removed, so I misunderstood that question I</p> <p>3 assume.</p> <p>4 Q Okay. So you don't know -- because you don't</p> <p>5 know who installed the plumbing in your house, you</p> <p>6 can't say whether that person was licensed, can you?</p> <p>7 A No.</p> <p>8 Q All right. If we turn the page, sir,</p> <p>9 Paragraph 61 just states that you moved into your home</p> <p>10 on January 1st of 2013; is that correct?</p> <p>11 A Yes.</p> <p>12 Q And you've lived there as -- that's been your</p> <p>13 primary residence ever since?</p> <p>14 A Yes.</p> <p>15 Q Okay. Now, the permanent -- who has lived in</p> <p>16 the house since then on a permanent basis?</p> <p>17 A Myself and my wife.</p> <p>18 Q Okay. And occasionally your kids and</p> <p>19 grandkids come by?</p> <p>20 A Yes.</p> <p>21 Q Sir, do you have any knowledge or experience</p> <p>22 with plumbing systems? Do you know how to do plumbing</p> <p>23 repairs in your own home, for instance?</p> <p>24 A I can unplug a drain, if that's what you</p> <p>25 mean.</p>	<p style="text-align: right;">Page 44</p> <p>1 I'm sorry.</p> <p>2 Q Okay. You've bought various homes over the</p> <p>3 years?</p> <p>4 A Yes.</p> <p>5 Q Okay. As part of that process, did you ever</p> <p>6 receive a disclosure from the previous owner saying,</p> <p>7 before you finalize the purchase, saying, here's some</p> <p>8 things that we know are wrong with the house and we</p> <p>9 want you to know that ahead of time?</p> <p>10 A No.</p> <p>11 Q You've never received something like that as</p> <p>12 part of a real estate transaction?</p> <p>13 A Oh, yes, but I never received one that said</p> <p>14 there was problems with the house.</p> <p>15 Q Okay.</p> <p>16 A If there was, I had it repaired paired before</p> <p>17 I bought the house.</p> <p>18 Q Okay. That's -- but that's still something</p> <p>19 that they're disclosing to you, the information about</p> <p>20 the house as it is, correct?</p> <p>21 A Yes.</p> <p>22 Q Okay. So did you receive some form like that</p> <p>23 from Mr. Ward or his real estate agent before you</p> <p>24 bought the house on Dusty Trail?</p> <p>25 A Again, I cannot picture that form, but if</p>
<p style="text-align: right;">Page 43</p> <p>1 Q Okay. Have you ever had, for instance, like</p> <p>2 a plumbing issue in your home and you've had to like</p> <p>3 shut off the water and maybe fix something?</p> <p>4 A No.</p> <p>5 Q Okay. So you typically hire that kind of</p> <p>6 work out?</p> <p>7 A Yes.</p> <p>8 Q In all of the previous homes that you've live</p> <p>9 in, have you ever had a plumbing issue, like a leak or</p> <p>10 something like that?</p> <p>11 A That's a lot of homes over the years, but I</p> <p>12 do not recall it, other than your occasional under the</p> <p>13 sink water leak, that's all.</p> <p>14 Q Okay. Can you recall what house that</p> <p>15 happened in? Did that ever happen, for instance, in</p> <p>16 your Grand Prairie home?</p> <p>17 A Probably way back when I lived in Alvarado,</p> <p>18 because it was an old home, and that did have the</p> <p>19 copper and the brass and the leaded seal and stuff on</p> <p>20 it.</p> <p>21 Q When you bought your house on Dusty Trail</p> <p>22 from Mr. Ward, as part of that transaction, were you</p> <p>23 given a disclosure form disclosing things about the</p> <p>24 house?</p> <p>25 A I don't recall the form you're talking about,</p>	<p style="text-align: right;">Page 45</p> <p>1 it's part of the transaction, I'm sure I did.</p> <p>2 Q Okay. And you're familiar with the real</p> <p>3 estate -- a real estate transaction where you have an</p> <p>4 inspection done before you finalize the purchase?</p> <p>5 A Yes.</p> <p>6 Q Okay. So you might hire an inspector to go</p> <p>7 out and take a look at everything and make sure</p> <p>8 everything is okay before you say, okay, I'm definitely</p> <p>9 going to buy this house?</p> <p>10 A Yes.</p> <p>11 Q Okay. Who was your real estate agent when</p> <p>12 you bought the house on Dusty Trail?</p> <p>13 A That information is on record or my wife</p> <p>14 might know it. I don't recall the real estate company</p> <p>15 at this time.</p> <p>16 Q Now, your wife lives in the same house as you</p> <p>17 do on Dusty Trail, do you know why she is not a</p> <p>18 plaintiff in this lawsuit with you?</p> <p>19 A No.</p> <p>20 Q Okay. But she has had leaks in the same</p> <p>21 house as you have; is that correct?</p> <p>22 A Yes.</p> <p>23 Q Okay. Did anyone ever ask her to be a</p> <p>24 plaintiff in this lawsuit, do you know?</p> <p>25 A No.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 46</p> <p>1 Q Okay. Does she not want to be a part of this</p> <p>2 lawsuit?</p> <p>3 A No.</p> <p>4 Q Okay. So she would be fine being involved,</p> <p>5 but she just doesn't happen to be a plaintiff, is that</p> <p>6 what you're saying?</p> <p>7 A Yes.</p> <p>8 Q Okay. I want to make sure as we move forward</p> <p>9 in this deposition that we're talking about the same</p> <p>10 things. So could you please turn to Paragraph 1 of</p> <p>11 Exhibit 2. Can you read that paragraph, please, and</p> <p>12 then I'm going to ask you a few questions.</p> <p>13 A Nature of the Action?</p> <p>14 Q Yes, in Paragraph 1 right there.</p> <p>15 A All right. Out loud or read it --</p> <p>16 Q Just read it to yourself, please.</p> <p>17 A Okay. Okay.</p> <p>18 Q Okay. And you see also that little picture</p> <p>19 that's below it?</p> <p>20 A Yes.</p> <p>21 Q And again, there's some terms in here PEX</p> <p>22 tubing, PEX fittings and PEX clamps. Do you see those</p> <p>23 terms used in that paragraph and also the picture</p> <p>24 below?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 looked at your house before the plumbing was redone?</p> <p>2 A Yes.</p> <p>3 Q Okay. When you moved into your home on Dusty</p> <p>4 Trail in January of 2013, were you given any</p> <p>5 information by the previous owner about the plumbing in</p> <p>6 your home?</p> <p>7 A Other than my watering system, he had to</p> <p>8 explain to me how the sprinkler system worked. He</p> <p>9 demonstrated that. And he explained to me that my hot</p> <p>10 water circulated through my house so that whenever I</p> <p>11 turned on any sink in the house, I would receive hot</p> <p>12 water immediately, he explained that to me.</p> <p>13 Q Okay. Do you understand that circulation</p> <p>14 system is possible -- made possible by what's called a</p> <p>15 recirculation tank, do you understand that?</p> <p>16 A Yes.</p> <p>17 Q Okay. And do you believe that's what he was</p> <p>18 describing to you that you had a recirculation tank in</p> <p>19 your home that provided hot water?</p> <p>20 A Yes.</p> <p>21 Q Okay. Had you ever had a recirculation tank</p> <p>22 in your home before?</p> <p>23 A No.</p> <p>24 Q Okay. Do you know what the settings are on</p> <p>25 that recirculating -- were on that recirculation tank</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Okay. So again, you understand the PEX</p> <p>2 tubing to be, you know, the plumbing lines themselves</p> <p>3 that run between -- between rooms and drains and sinks</p> <p>4 and things, correct?</p> <p>5 A Yes.</p> <p>6 Q And the fittings to be the things that</p> <p>7 connect the tubing together?</p> <p>8 A Yes.</p> <p>9 Q Okay. And then the clamps are those rings on</p> <p>10 the outside; is that correct?</p> <p>11 A Yes.</p> <p>12 Q Okay. And again, to clarify, you stated</p> <p>13 earlier that you believe there was NIBCO PEX tubing in</p> <p>14 your home, but you do not know who manufactured the</p> <p>15 fittings and the clamps that were in your home</p> <p>16 previously; is that correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. And you believe that the fittings in</p> <p>19 your home previously were brass fittings, is that</p> <p>20 correct or do you know?</p> <p>21 A In this home?</p> <p>22 Q In the Dusty Trail house, what material do</p> <p>23 you believe your fittings were made out of?</p> <p>24 A I do not know.</p> <p>25 Q Okay. You would defer to the people who</p>	<p style="text-align: right;">Page 49</p> <p>1 when you moved in, like how often it would recirculate</p> <p>2 the water?</p> <p>3 A No.</p> <p>4 Q Did you ever adjust the settings on that</p> <p>5 tank?</p> <p>6 A No, I did not know that it was a setting. I</p> <p>7 thought it was continuous.</p> <p>8 Q Okay. So you don't know whether the water</p> <p>9 was circulating -- recirculating all the time or was</p> <p>10 recirculating just part of the day, you believe it was</p> <p>11 recirculating on a continuous basis all day long?</p> <p>12 A Yes.</p> <p>13 Q Okay. Now, Mr. Ward explained that system to</p> <p>14 you. Did he give you any materials related to that</p> <p>15 system, like an owner's manual or anything?</p> <p>16 A No.</p> <p>17 Q Did you ever discuss that recirculation tank</p> <p>18 with any of the plumbers who worked on your home on</p> <p>19 Dusty Trail?</p> <p>20 A Yes.</p> <p>21 Q Okay. And who did you discuss that</p> <p>22 recirculation tank with?</p> <p>23 A It must have been this -- not D D's, but the</p> <p>24 second one, because the pump was making noise, the</p> <p>25 recirculation pump. It was working, but very noisy.</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 50</p> <p>1 And under my homeowners policy, it -- my -- I'm sorry,</p> <p>2 I can't remember the name, the shield -- Home Shield,</p> <p>3 they covered the pump and he replaced it.</p> <p>4 Q When was that recirculation tank replaced?</p> <p>5 A Don't recall the date.</p> <p>6 Q Okay. So you moved in on January 1st, 2013,</p> <p>7 was it within the first year that you owned the home?</p> <p>8 A I would say yes.</p> <p>9 Q And you believe it was the second plumber, do</p> <p>10 you know the name of that plumber?</p> <p>11 A No.</p> <p>12 Q Was it West Town Plumbing?</p> <p>13 A I don't recall the name, I'm sorry.</p> <p>14 Q Okay. You said Home Shield paid for that</p> <p>15 replacement; is that correct?</p> <p>16 A After my deductible, yes.</p> <p>17 Q Okay. Do you have documents related to that</p> <p>18 replacement?</p> <p>19 A They're on record, but I don't know that I</p> <p>20 have them.</p> <p>21 Q What do you mean on record?</p> <p>22 A They would know the plumbers who had that</p> <p>23 information or my Home Shield who paid for it.</p> <p>24 Q Okay.</p> <p>25 A They would have those records.</p>	<p style="text-align: right;">Page 52</p> <p>1 A It was the same as the previous one.</p> <p>2 Q Okay.</p> <p>3 A The only reason it was changed is because it</p> <p>4 was getting noisy.</p> <p>5 Q So the circulation tank itself was replaced,</p> <p>6 but you believe that they continued to have the water</p> <p>7 circulate throughout the home continuously?</p> <p>8 A Did I say tank, I meant the pump.</p> <p>9 Q Okay.</p> <p>10 A The pump itself was noisy and being</p> <p>11 replaced.</p> <p>12 Q Okay. So the recirculation tank was not</p> <p>13 replaced, but the pump was, is that what you're telling</p> <p>14 me?</p> <p>15 A When you say tank, I'm not sure what that</p> <p>16 is.</p> <p>17 Q Well, there's a recirculation tank, and I</p> <p>18 don't know what's installed in your home, so I need you</p> <p>19 to help me out here.</p> <p>20 A The plumbers would have to tell you that</p> <p>21 information. There's only a hot water heater tank in</p> <p>22 the closet, and then on the side coming out of the tank</p> <p>23 is the pump. The pump circulates it through the house</p> <p>24 and it goes back into the hot water heater.</p> <p>25 Q Okay. So you believe that pump is the part</p>
<p style="text-align: right;">Page 51</p> <p>1 Q Is that the same policy that you have -- that</p> <p>2 you have today --</p> <p>3 A Yes.</p> <p>4 Q -- that Home Shield policy?</p> <p>5 MS. STEPHENS: We have been going</p> <p>6 about an hour, would you like to take a break or would</p> <p>7 you like to keep going?</p> <p>8 THE WITNESS: I'm okay if everybody</p> <p>9 else is.</p> <p>10 MR. SHAMBERG: That's fine.</p> <p>11 MS. STEPHENS: It's fine by me. I</p> <p>12 like to defer to the witness.</p> <p>13 THE WITNESS: When my bladder is</p> <p>14 calling, I'll let you know.</p> <p>15 MS. STEPHENS: Please do, sir.</p> <p>16 Q (By Ms. Stephens) When the new recirculation</p> <p>17 tank was installed in your home, who set the settings</p> <p>18 of that tank, do you know?</p> <p>19 A All I know is that the pump itself had a</p> <p>20 circu -- you know, how much it would move through</p> <p>21 there. I don't know if there was a setting.</p> <p>22 Q Okay. What does it say how much it will move</p> <p>23 through the house?</p> <p>24 A I don't know.</p> <p>25 Q You don't know. Is it --</p>	<p style="text-align: right;">Page 53</p> <p>1 that was replaced?</p> <p>2 A Yes. It was still working. It was just</p> <p>3 getting noisy after seven years. He said the bearings</p> <p>4 were starting to go out.</p> <p>5 Q Okay.</p> <p>6 MR. SHAMBERG: You want to get up</p> <p>7 and stretch for a second?</p> <p>8 MS. STEPHENS: Let's take a quick</p> <p>9 break.</p> <p>10 (A recess was taken from 9:01 to 9:14.)</p> <p>11 Q (By Ms. Stephens) All right. Mr. McMahon,</p> <p>12 we are back on the record. Do you understand you're</p> <p>13 still under oath?</p> <p>14 A Yes.</p> <p>15 Q During the break, did you have an opportunity</p> <p>16 to talk to your wife or somebody about some of the</p> <p>17 questions that we talked about in the first hour of the</p> <p>18 deposition?</p> <p>19 A Yes.</p> <p>20 Q Okay. And what information did you find out</p> <p>21 about the builder of the house?</p> <p>22 A I have the builder's name and a phone</p> <p>23 number.</p> <p>24 Q Okay. Can you please read that information</p> <p>25 out for us?</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 54</p> <p>1 A His name is Randy Davis, D-A-V-I-S. It's 2 (972) 824-3159.</p> <p>3 Q Okay. Thank you. And did you find anything 4 else out about the builder of the house or is that the 5 information that you received?</p> <p>6 A That's all the information I have. I did 7 find out that our water company, municipal water 8 company is called Crest, C-R-E-S-T, Crest Water.</p> <p>9 Q Thank you, sir. I appreciate you getting 10 that information for me.</p> <p>11 So given that you do not know who 12 installed the plumbing in your house, do you know why 13 PEX tubing was chosen for the plumbing in your Dusty 14 Trail home?</p> <p>15 A No.</p> <p>16 Q Do you know why a particular brand was chosen 17 for the plumbing in your home?</p> <p>18 A No.</p> <p>19 Q And do you know who had input on that 20 decision?</p> <p>21 A No.</p> <p>22 Q Okay. So you don't know whether the builder 23 or the person who originally had the house built chose 24 that one way or the other, you just don't know?</p> <p>25 A No -- I mean, yes, I don't know.</p>	<p style="text-align: right;">Page 56</p> <p>1 that was there when you bought the home?</p> <p>2 A No.</p> <p>3 Q Okay. So that has also been replaced?</p> <p>4 A Yes.</p> <p>5 Q And when was that expansion tank replaced?</p> <p>6 A I don't know the date of that.</p> <p>7 Q Was it replaced at the same time that your 8 house was replumbed?</p> <p>9 A It was replaced after a leak behind the hot 10 water heater. I don't recall which leak that was.</p> <p>11 Q So you believe it's related to a leak, was 12 that a leak in the PEX tubing?</p> <p>13 A Yes.</p> <p>14 Q Okay. So you believe in relation to a leak 15 in the PEX tubing in your home, the expansion tank was 16 also replaced at that time; is that correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. Do you know who replaced the expansion 19 tank, which plumber?</p> <p>20 A No.</p> <p>21 Q Do you know why the expansion tank was 22 replaced?</p> <p>23 A It was recommended by the plumber.</p> <p>24 Q Why did the plumber recommend that it be 25 replaced?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Thank you for clarifying. To go back to the 2 recirculation pump that we were talking about. To your 3 knowledge, again, you believe it recirculates the water 4 in your system constantly throughout the day, is that 5 your understanding?</p> <p>6 A All I do know is that I have hot water 7 immediately. If it turns itself off occasionally, I 8 would not know.</p> <p>9 Q Was the recirculating pump replaced at the 10 same time that your home on Dusty Trail was replumbed 11 or was that a separate occasion?</p> <p>12 A That would be separate.</p> <p>13 Q Do you know what an expansion tank is?</p> <p>14 A I would say no.</p> <p>15 Q Okay. So if I asked you whether your home on 16 Dusty Trail has an expansion tank, would you know the 17 answer?</p> <p>18 A I was told it did.</p> <p>19 Q Okay. And do you know what an expansion tank 20 does?</p> <p>21 A No.</p> <p>22 Q Okay. But you believe your house on Dusty 23 Trail has one?</p> <p>24 A Yes.</p> <p>25 Q Do you believe it's the same expansion tank</p>	<p style="text-align: right;">Page 57</p> <p>1 A I don't recall the technical reason. It was 2 a suggestion.</p> <p>3 Q Was it because the expansion tank was old and 4 needed to be replaced or was it -- was there some sort 5 of issue with the tank itself?</p> <p>6 A The hot water heater did not have an 7 expansion tank built in, he says it may be somewhere 8 else in the house, but he needed to install one right 9 there next to it.</p> <p>10 Q Okay.</p> <p>11 A It's preventative maintenance, I believe he 12 said.</p> <p>13 Q Okay. Let's go back to Exhibit 2. Could you 14 please flip back to Page 13. Do you see there starting 15 with Paragraph 62, it says, Starting in early 2013, 16 approximately six leaks in NIBCO's Dura-Pex tubing has 17 occurred in plaintiff McMahon's home. The first four 18 leaks were located at the top of his garage. The two 19 most recent leaks caused significant damaged inside 20 plaintiff McMahon's home. Is that an accurate 21 statement?</p> <p>22 A Yes.</p> <p>23 Q Well, I would like to break down these six 24 leaks that are discussed and mentioned in Paragraph 62. 25 The first leak that occurred in your home, what day did</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 58</p> <p>1 that leak occur, to your knowledge?</p> <p>2 A Without the written dates, I couldn't tell</p> <p>3 you exactly. It was too long ago.</p> <p>4 Q Okay. Where are those dates written down?</p> <p>5 A On the paperwork that we have.</p> <p>6 Q Okay.</p> <p>7 THE WITNESS: Do you have that?</p> <p>8 Q (By Ms. Stephens) Which paperwork is that, I</p> <p>9 would like to know specifically. Is that something</p> <p>10 that you would like to use today to help refresh your</p> <p>11 recollection?</p> <p>12 A That would be the only way I could remember</p> <p>13 all of those dates.</p> <p>14 Q Okay. And you're referring to like invoices</p> <p>15 and documents like that that were produced to me?</p> <p>16 A Yes.</p> <p>17 Q Okay. And you believe those documents</p> <p>18 outline every single leak and the date of that leak?</p> <p>19 A Yes.</p> <p>20 Q Okay. I'm going to give you a series of</p> <p>21 documents that have already been marked as exhibits.</p> <p>22 I'm going to go ahead and give them all to you, because</p> <p>23 I don't know which ones you're referring to, okay?</p> <p>24 A Okay.</p> <p>25 Q I believe that you have produced in this</p>	<p style="text-align: right;">Page 60</p> <p>1 coverage under your policy until 2014; is that</p> <p>2 correct?</p> <p>3 A I would say yes.</p> <p>4 Q Okay. I'm going to hand you what's been</p> <p>5 marked Exhibit 5. This bears the Bates label McMahon</p> <p>6 000003. Again, this was produced to us as part of this</p> <p>7 lawsuit. Does this information help you determine when</p> <p>8 the first leak was in your home?</p> <p>9 A No.</p> <p>10 Q Okay. Up on the upper right-hand corner --</p> <p>11 actually there's some handwriting on this page. In the</p> <p>12 left-hand corner it says, I believe, Tracking and then</p> <p>13 it 5359028. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Whose handwriting is that?</p> <p>16 A It's not mine.</p> <p>17 Q Is it your wife's handwriting?</p> <p>18 A That's possible.</p> <p>19 Q Okay. Do you know what that tracking and</p> <p>20 then that number refers to?</p> <p>21 A No, and I don't think she would either.</p> <p>22 Q Okay. What about Attachment No. 2, which is</p> <p>23 handwritten at the top of the page, whose handwriting</p> <p>24 is that?</p> <p>25 A That's mine.</p>
<p style="text-align: right;">Page 59</p> <p>1 lawsuit to us 10 pages of documents, and that's all I</p> <p>2 have. So I'm going to give those all 10 to you in</p> <p>3 exhibits and I would like you to review them and then</p> <p>4 I'm going to start my questions again, okay?</p> <p>5 A Okay.</p> <p>6 (Exhibit No. 3, 4 and 5 were marked.)</p> <p>7 Q (By Ms. Stephens) I'm going to hand you</p> <p>8 Exhibit 4, which is McMahon 000001 and 2. Sir, what is</p> <p>9 Exhibit 4?</p> <p>10 A This is my insurance claim for the damages to</p> <p>11 my property.</p> <p>12 Q Okay. Does Exhibit 4 help you in any way to</p> <p>13 provide me with information regarding what date the</p> <p>14 first leak occurred in your home?</p> <p>15 A I see no dates on here, so no.</p> <p>16 Q Okay. On the first page there's -- in the</p> <p>17 middle of the page, it says, Date of loss, March 31st,</p> <p>18 2014 in the middle of the page?</p> <p>19 A Oh, okay.</p> <p>20 Q Does that help you at all determine when the</p> <p>21 first leak was in your home?</p> <p>22 A No. This was when they were -- I was</p> <p>23 notified or they notified me that they received my</p> <p>24 request for coverage.</p> <p>25 Q Okay. So you believe you did not seek</p>	<p style="text-align: right;">Page 61</p> <p>1 Q Okay. Why did you write Attachment No. 2 at</p> <p>2 the top of the page?</p> <p>3 A After I read each one, the information I had</p> <p>4 was in an attachment for people to look at it, I</p> <p>5 believe, and analyze, you know, why -- why is this the</p> <p>6 way it is because of see Attachment No. 2.</p> <p>7 Q Who did you send this to as an Attachment</p> <p>8 No. 2?</p> <p>9 A These are -- was like the copies I received,</p> <p>10 so I'm guessing my -- the lawyers received the copy.</p> <p>11 Q Okay. So if you look at the previous</p> <p>12 exhibit, there's also some handwriting, it says</p> <p>13 Attachment No. 1, Page 1, is that your handwriting?</p> <p>14 A Yes.</p> <p>15 Q So you believe those notations on these</p> <p>16 documents were made once you became involved in this</p> <p>17 lawsuit?</p> <p>18 A Yes.</p> <p>19 Q Okay. Perhaps as a way of helping you track</p> <p>20 which documents you sent them, you wrote those</p> <p>21 notations on them?</p> <p>22 A Right.</p> <p>23 Q Thank you. At the top of Page 5 in the upper</p> <p>24 right-hand corner, there's an E-mail address</p> <p>25 tpmac04@sbcglobal.net, is that your E-mail address,</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 62</p> <p>1 sir?</p> <p>2 MR. SHAMBERG: On Page 5?</p> <p>3 Q (By Ms. Stephens) Exhibit 5.</p> <p>4 A I can't find a Page 5.</p> <p>5 Q It's in the right hand --</p> <p>6 MR. SHAMBERG: Exhibit 5.</p> <p>7 A Oh, Exhibit 5, I'm sorry.</p> <p>8 Q (By Ms. Stephens) Yes, sorry. That's okay.</p> <p>9 It's confusing I know.</p> <p>10 A Okay.</p> <p>11 Q Do you see in the upper right-hand corner</p> <p>12 there's an E-mail?</p> <p>13 A Oh, yes, uh-huh.</p> <p>14 Q Is that your E-mail address?</p> <p>15 A Yes.</p> <p>16 Q Is that still the E-mail address you're using</p> <p>17 today?</p> <p>18 A Yes.</p> <p>19 Q So based on Exhibit 4 and 5 so far, we still</p> <p>20 don't know the date of the first leak in your home; is</p> <p>21 that correct?</p> <p>22 A Yes.</p> <p>23 Q Okay.</p> <p>24 (Exhibit No. 6 was marked.)</p> <p>25 Q (By Ms. Stephens) I'm going to hand you</p>	<p style="text-align: right;">Page 64</p> <p>1 A After all of the leaks and when the plumbing</p> <p>2 was replaced, he came in and patched all of the damage</p> <p>3 that they did to the walls when they installed the</p> <p>4 plumbing.</p> <p>5 Q Okay. So this is an invoice from June 2014.</p> <p>6 Do you still believe that the first leak occurred in</p> <p>7 your home in early 2013, because that's what it says in</p> <p>8 Paragraph 62 on Exhibit 2?</p> <p>9 A Okay. When I researched this. I got all of</p> <p>10 the receipts from each plumber and wrote it down on the</p> <p>11 list and that's the only thing I can refer to be</p> <p>12 sure.</p> <p>13 Q Okay. Well, let's keep going and look at</p> <p>14 some more documents then.</p> <p>15 A Okay.</p> <p>16 Q Does this Exhibit 6 help you at all determine</p> <p>17 when the first leak was in your home?</p> <p>18 A No, that's when it was repaired, an estimate.</p> <p>19 (Exhibit No. 7 was marked.)</p> <p>20 Q (By Ms. Stephens) I'm going to hand you</p> <p>21 what's been marked as Exhibit 7. This has been Bates</p> <p>22 labeled McMahon 000005. And again, there's some</p> <p>23 handwriting at the top. Do you see that?</p> <p>24 A Yes.</p> <p>25 Q Is that your handwriting?</p>
<p style="text-align: right;">Page 63</p> <p>1 what's been marked as Exhibit 6. The Bates labels on</p> <p>2 this are McMahon 000004. Do you recognize this</p> <p>3 document?</p> <p>4 A Yes.</p> <p>5 Q Okay. And again, there's some handwriting at</p> <p>6 the top, there's a star and it says, I used this</p> <p>7 company to repair all of the damage, and it says</p> <p>8 Attachment 3, is that your handwriting?</p> <p>9 A Yes.</p> <p>10 Q Okay. And again, that was some stuff that</p> <p>11 you wrote on this as part of this lawsuit; is that</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. Now, this is an invoice from</p> <p>15 Cunningham Construction; is that correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. And the date on this, if we look on</p> <p>18 the right-hand side, it says, Invoice Date: 06/20/2014.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Now, it says -- this note at the top, the</p> <p>22 company to repair all of the damage. Do you mean</p> <p>23 Cunningham repaired all of the property damage to your</p> <p>24 home as a result of all of the leaks or one leak in</p> <p>25 particular?</p>	<p style="text-align: right;">Page 65</p> <p>1 A Yes.</p> <p>2 Q It says, Attachment No. 4, out of pocket?</p> <p>3 A Yes.</p> <p>4 Q And this is an invoice, it's difficult to</p> <p>5 read, do you know who this invoice is from?</p> <p>6 A Wow, that is -- Fast?</p> <p>7 Q Does it say Fast Action?</p> <p>8 A Or Fast Action or Fast Motion? You are</p> <p>9 correct, that's hard to read.</p> <p>10 Q Well, if we look below, there's some E-mail</p> <p>11 addresses, do you see that and it says,</p> <p>12 Fastactionrestoration.com?</p> <p>13 A There you go.</p> <p>14 Q Okay. So maybe that's the name of the --</p> <p>15 A Fast Action Restoration, yes, that's what it</p> <p>16 says.</p> <p>17 Q And what kind of work did this company do for</p> <p>18 you?</p> <p>19 A They came in and had to cut the walls open</p> <p>20 and there was already mold starting to grow from the</p> <p>21 water leaks.</p> <p>22 Q Okay. So they brought in some equipment to</p> <p>23 help dry out the --</p> <p>24 A Right. We had to leave the premise.</p> <p>25 Q Okay. And when you left the premises, how</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 66</p> <p>1 many days were you out of the house?</p> <p>2 A On occasion -- we stayed with relatives. And</p> <p>3 I did come back and check on things because of the fans</p> <p>4 running the whole time, I was worried.</p> <p>5 Q So you think you were out of your house for</p> <p>6 about a week?</p> <p>7 A I would say several days.</p> <p>8 Q Okay.</p> <p>9 A I don't remember being gone that long.</p> <p>10 Q Okay. This is an invoice from April 2014,</p> <p>11 does this help refresh your recollection of when the</p> <p>12 first leak occurred in your home?</p> <p>13 A No.</p> <p>14 Q Okay.</p> <p>15 (Exhibit No. 8 was marked.)</p> <p>16 Q (By Ms. Stephens) I'm going to hand you</p> <p>17 what's been marked as Exhibit 8. This has been Bates</p> <p>18 labeled McMahon 000006. And again, there's some</p> <p>19 handwriting at the top, is that your handwriting?</p> <p>20 A Yes.</p> <p>21 Q It says, I used this company to replace all</p> <p>22 of the plumbing. Attachment No. 5, that's your</p> <p>23 handwriting?</p> <p>24 A Yes.</p> <p>25 Q Okay. And this is an estimate from Shanks</p>	<p style="text-align: right;">Page 68</p> <p>1 A No.</p> <p>2 Q Do you know whether they're brass or</p> <p>3 plastic?</p> <p>4 A No.</p> <p>5 Q Okay. Did you have any discussion with</p> <p>6 Shanks before they replumbed your home about what kind</p> <p>7 of material they were going to use?</p> <p>8 A Yes.</p> <p>9 Q Okay. And what was that discussion?</p> <p>10 A I told them I wanted something in the house</p> <p>11 that would never leak again, and they assured me their</p> <p>12 product had a good record and never had any problems</p> <p>13 with it, so I said okay.</p> <p>14 Q So you were told by Shanks that whatever</p> <p>15 product they were going to install has never had any</p> <p>16 problems to their --</p> <p>17 A Yes.</p> <p>18 Q -- knowledge?</p> <p>19 A To their knowledge.</p> <p>20 Q Did you want something other than PEX or did</p> <p>21 you care one way or another?</p> <p>22 A I did care. I did not want any more leaks in</p> <p>23 my house, so they assured me that what they used, they</p> <p>24 used in everybody's house, so...</p> <p>25 Q So they have been installing PEX as far as</p>
<p style="text-align: right;">Page 67</p> <p>1 Plumbing Service, LLC. Do you see that?</p> <p>2 A Yes.</p> <p>3 Q Okay. Now, what did Shanks Plumbing do for</p> <p>4 you at your home?</p> <p>5 A They removed all of the plumbing, pipes,</p> <p>6 fittings, everything, and replaced it.</p> <p>7 Q Okay.</p> <p>8 A In the whole house.</p> <p>9 Q And what kind of plumbing material did they</p> <p>10 replace the piping in your home with, do you know?</p> <p>11 A I don't know the brand, but I know it was</p> <p>12 PEX.</p> <p>13 Q Okay. So there's still PEX tubing in your</p> <p>14 home?</p> <p>15 A Yes.</p> <p>16 Q Do you think -- you don't know the brand; is</p> <p>17 that correct?</p> <p>18 A No.</p> <p>19 Q Is it NIBCO?</p> <p>20 A No.</p> <p>21 Q Is it Uponor, does that sound familiar?</p> <p>22 A I've heard the term, but I don't know if</p> <p>23 that's it.</p> <p>24 Q Okay. Do you know what kind of fittings they</p> <p>25 used when they replumbed your house?</p>	<p style="text-align: right;">Page 69</p> <p>1 you know in other homes --</p> <p>2 A For a long time.</p> <p>3 Q For a long time?</p> <p>4 A Yes.</p> <p>5 Q Did you say to them, I would rather not have</p> <p>6 PEX at all or anything like that?</p> <p>7 A No.</p> <p>8 Q Okay. So you didn't say I would rather have</p> <p>9 copper or some other material, you left that up to</p> <p>10 them, you just wanted assurances that it wasn't going</p> <p>11 to leak again; is that correct?</p> <p>12 A Yes.</p> <p>13 Q Did Shanks Plumbing Service give you any --</p> <p>14 some sort of warranty or guarantee when they did the</p> <p>15 replumbing about the work that they did?</p> <p>16 A Yes.</p> <p>17 Q Like a one-year warranty or anything like</p> <p>18 that?</p> <p>19 A Yes, they did. I don't recall how long the</p> <p>20 warranty was.</p> <p>21 Q Okay. Did you get any sort of documentation</p> <p>22 as part of that or is that something they just told you</p> <p>23 orally?</p> <p>24 A No, I have some documents I'm sure.</p> <p>25 Q Would that be in your home?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 70</p> <p>1 A Yes.</p> <p>2 Q Now, the invoice, I believe this is dated</p> <p>3 April 16th, 2014. Do you see that at the top?</p> <p>4 A Okay. Here, okay. Yes, it's faded, but yes,</p> <p>5 I see it.</p> <p>6 Q Does Exhibit, I believe, 7?</p> <p>7 A 8.</p> <p>8 Q Or 8, excuse me, refresh your recollection of</p> <p>9 the date of the first leak in the plumbing in your</p> <p>10 home?</p> <p>11 A No.</p> <p>12 (Exhibit No. 9 was marked.)</p> <p>13 Q (By Ms. Stephens) I'm going to hand you</p> <p>14 what's been marked Exhibit 9. This is bearing a Bates</p> <p>15 label McMahon 000007. And again, there's handwriting</p> <p>16 on this document, is that your handwriting?</p> <p>17 A Yes.</p> <p>18 Q It says, Attachment No. 6 at the top. Do you</p> <p>19 see that?</p> <p>20 A Yes.</p> <p>21 Q And it says, This estimate was to replace</p> <p>22 pipes and repair all damage. I did not use this</p> <p>23 company. Do you see that?</p> <p>24 A Yes.</p> <p>25 Q Okay. So can you explain to me what this</p>	<p style="text-align: right;">Page 72</p> <p>1 day when I drive into work. They're a large company</p> <p>2 and I -- I called them and found out if they would come</p> <p>3 up. They had -- going back, Home Shield sent them out</p> <p>4 on one or two of the repairs and they did a great job.</p> <p>5 I liked their professionalism, and I decided to get an</p> <p>6 estimate from them, and then I chose them because this</p> <p>7 estimate, as you can see, is very high.</p> <p>8 Q Okay. And if I'm reading this correctly,</p> <p>9 this is to not only repair the plumbing, but also do</p> <p>10 the -- fix the dam -- like the Sheetrock and things</p> <p>11 like that; is that correct? This is a combined</p> <p>12 estimate?</p> <p>13 A I believe they were going to contract out to</p> <p>14 do the repairs after they did the plumbing.</p> <p>15 Q Okay. So this was only, you believe, for the</p> <p>16 plumbing itself, because it says at the top in your</p> <p>17 handwriting, This estimate was to replace pipes and</p> <p>18 repair all damage, is that accurate?</p> <p>19 A When I wrote that, I believed that to be</p> <p>20 true.</p> <p>21 Q Okay. And I mean, I guess, this document</p> <p>22 says what it says as far as what they -- the work they</p> <p>23 were estimating to do; is that correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. It says under the scope of work, do</p>
<p style="text-align: right;">Page 71</p> <p>1 document in Exhibit No. 9 is?</p> <p>2 A They came out and assessed the damage and</p> <p>3 replacing all plumbing and clean up and repairs.</p> <p>4 Q Okay. This is from Mitchell Roofing &amp;</p> <p>5 Remodeling; is that correct?</p> <p>6 A Yes.</p> <p>7 Q And how did you -- did you call up Mitchell</p> <p>8 and ask them for this information or was this handled</p> <p>9 by your insurance company?</p> <p>10 A When I realized I was going to have to</p> <p>11 repair -- do everything out of pocket, I got several</p> <p>12 estimates.</p> <p>13 Q Okay. So did you get an estimate from Shanks</p> <p>14 and that's what we just saw?</p> <p>15 A Yes.</p> <p>16 Q Okay. You got this estimate from Mitchell;</p> <p>17 is that correct?</p> <p>18 A Yes.</p> <p>19 Q Did you get any other estimates?</p> <p>20 A I only recall two. This one and Shanks.</p> <p>21 Q Okay. And how did you find Shanks and</p> <p>22 Mitchell?</p> <p>23 A Word of mouth.</p> <p>24 Q Okay. So what did you talk to?</p> <p>25 A The -- well, I pass by Rick's Plumbing every</p>	<p style="text-align: right;">Page 73</p> <p>1 you see that section with a bunch of bullets underneath</p> <p>2 it?</p> <p>3 A Oh, yes.</p> <p>4 Q Okay. It says, Repipe residence with PEX</p> <p>5 manufactured by Zurn. Have you ever heard of Zurn</p> <p>6 before?</p> <p>7 A Oh, I thought that was zoom. Okay. No.</p> <p>8 Q Okay. I assure you that it's Z-U-R-N --</p> <p>9 A Or very close to an M.</p> <p>10 Q -- is what it's intended to be? Yeah.</p> <p>11 A Okay.</p> <p>12 Q Okay. So you've never heard of Zurn</p> <p>13 before?</p> <p>14 A No.</p> <p>15 Q After you received this estimate -- actually</p> <p>16 before you asked for an estimate, did you have any</p> <p>17 discussion with Mitchell Roofing &amp; Remodeling about</p> <p>18 what kind of piping you wanted in your home?</p> <p>19 A No.</p> <p>20 Q Okay. Did you say to them, I want an</p> <p>21 estimate that includes PEX piping, for instance?</p> <p>22 A No.</p> <p>23 Q Okay. After you received this estimate, did</p> <p>24 you have any discussion with them about what they</p> <p>25 planned to install in your home pursuant to this</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 74</p> <p>1 estimate?</p> <p>2 A I'm sure during the estimate he told me what</p> <p>3 they used. And like I said, I did not know what Zurn</p> <p>4 was at the time. I knew it was PEX plumbing -- I knew</p> <p>5 it was a PEX type product.</p> <p>6 Q Okay. Did you also ask from whoever you</p> <p>7 worked with at Mitchell Roofing &amp; Remodeling, did you</p> <p>8 also ask that person about why they were going to use</p> <p>9 the piping that they suggested in this estimate?</p> <p>10 A No.</p> <p>11 Q Okay. Well, you previously stated that it</p> <p>12 was important to you that whatever piping you installed</p> <p>13 not leak. Did you ask them about their experience with</p> <p>14 the products they were going to install in your home?</p> <p>15 A They're experience, again, word of mouth,</p> <p>16 what they did was very good work, and so I don't like</p> <p>17 to use the word assume, but I do know that they would</p> <p>18 use a product that would last and I knew it would be</p> <p>19 under warranty.</p> <p>20 Q Okay. Does this estimate from Mitchell</p> <p>21 Roofing &amp; Remodeling, which is dated, I believe, April</p> <p>22 23rd, 2014, refresh your recollection about the date of</p> <p>23 the first leak at your home on Dusty Trail?</p> <p>24 A No, without that list of the times that I</p> <p>25 specifically annotated on a piece of paper, I do not</p>	<p style="text-align: right;">Page 76</p> <p>1 the record.</p> <p>2 (A recess was taken from 9:40 to 9:44.)</p> <p>3 Q (By Ms. Stephens) All right. So we are back</p> <p>4 on the record. We just had a discussion off the record</p> <p>5 about an additional exhibit that's going to be provided</p> <p>6 after a break. But for now, we're going to go through</p> <p>7 a few more exhibits, okay?</p> <p>8 A Okay.</p> <p>9 Q Mr. McMahon, you understand that you're still</p> <p>10 under oath?</p> <p>11 A Yes.</p> <p>12 (Exhibit No. 10 was marked.)</p> <p>13 Q (By Ms. Stephens) I'm going to show you</p> <p>14 what's been marked Exhibit 10. This is a piece of</p> <p>15 paper that has Bates label McMahon 000008. And this</p> <p>16 has some handwriting on it. Do you recognize the</p> <p>17 handwriting at the top of this page?</p> <p>18 A Only the part where it says Attachment 7,</p> <p>19 that's my handwriting.</p> <p>20 Q Okay. And the other handwriting on this, you</p> <p>21 don't know whose handwriting that is?</p> <p>22 A No.</p> <p>23 Q Okay. And what is Exhibit 10?</p> <p>24 A Oh, I'm sorry.</p> <p>25 Q The one that's in front of you.</p>
<p style="text-align: right;">Page 75</p> <p>1 remember this date compared to the dates that I wrote</p> <p>2 down.</p> <p>3 Q Okay. Do you believe that that list of leaks</p> <p>4 and that annotated list has been produced in this</p> <p>5 lawsuit?</p> <p>6 A Yes.</p> <p>7 Q Okay.</p> <p>8 MS. STEPHENS: Is that true, Kyle?</p> <p>9 MR. SHAMBERG: I'm not sure that it</p> <p>10 has. I would like to check.</p> <p>11 MS. STEPHENS: Because I'm almost at</p> <p>12 the end and I don't believe I've got anything other</p> <p>13 than a few handwritten notes that are not, I believe,</p> <p>14 from Mr. McMahon.</p> <p>15 MR. SHAMBERG: Okay.</p> <p>16 MS. STEPHENS: I'm going to finish</p> <p>17 going through these exhibits, and then we're going to</p> <p>18 have to solve that, because if he needs to refer to</p> <p>19 that list to have an effective deposition today --</p> <p>20 MR. SHAMBERG: Right.</p> <p>21 MS. STEPHENS: -- I need that</p> <p>22 information.</p> <p>23 MR. SHAMBERG: Can we go off for a</p> <p>24 second?</p> <p>25 MS. STEPHENS: Yeah, let's go off</p>	<p style="text-align: right;">Page 77</p> <p>1 A I'm still looking at Attachment 7, I'm sorry.</p> <p>2 After the first three leaks, D D's Plumbing, this guy</p> <p>3 named Chuck came to the house and did all three</p> <p>4 repairs. He said I should look into it, because</p> <p>5 there's -- he sees a pattern. He asked me to look into</p> <p>6 it. And after I did, I explained that I did notice</p> <p>7 that there were other issues with this plumbing. And</p> <p>8 he said, would you like me to say something about what</p> <p>9 I -- what I saw? And I said, sure, that would help.</p> <p>10 And I went to his shop and he hand wrote this for me.</p> <p>11 This was, obviously, after several waters repairs. And</p> <p>12 after he was discontinued -- my insurance, the</p> <p>13 homeowners insurance, Home Shield, after this third</p> <p>14 leak, they went to a different plumber. I think there</p> <p>15 was three plumbers all together to repair the leaks</p> <p>16 over the time period. He did the first three. And as</p> <p>17 you notice on here, he went into a little detail of</p> <p>18 what he saw.</p> <p>19 Q Thank you. Do you see the date on this form</p> <p>20 at the top it says April 4th, 2014?</p> <p>21 A Yes.</p> <p>22 Q And you stated that in that previous answer</p> <p>23 that Mr. -- this D D's Plumbing fixed some leaks in</p> <p>24 your home after the first three leaks; is that</p> <p>25 correct?</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 78</p> <p>1 A He fixed the first three leaks.</p> <p>2 Q Okay. And so this is dated April 4th, 2014;</p> <p>3 is that right?</p> <p>4 A Correct.</p> <p>5 Q Does this help refresh your recollection</p> <p>6 about when those first three leaks occurred?</p> <p>7 A They were all prior to this, yeah.</p> <p>8 Q Okay. Were they all in 2013 or were they all</p> <p>9 in 2014, those first three leaks?</p> <p>10 A Most of the leaks were in 2013 -- yeah, 2013.</p> <p>11 They continued.</p> <p>12 Q Okay. So this form was written, you think,</p> <p>13 like a year after those first three leaks occurred?</p> <p>14 A Oh, not a year, I would say months.</p> <p>15 Q Okay. Well, again, I'm just referring to</p> <p>16 Paragraph 62 where it says, Starting in early 2013, you</p> <p>17 started having leaks; is that correct?</p> <p>18 A Right.</p> <p>19 Q Okay. So this was written April of 2014,</p> <p>20 which was I believe a year after that or -- because</p> <p>21 again, you said early 2013 the leaks started,</p> <p>22 correct?</p> <p>23 A We will have that information shortly, and I</p> <p>24 just can't remember the dates.</p> <p>25 Q Okay. I'm just trying to find a consistency</p>	<p style="text-align: right;">Page 80</p> <p>1 the Bates number McMahon 000009. And it says, again,</p> <p>2 it says, Attachment No. 8 at the top, is that your</p> <p>3 handwriting?</p> <p>4 A Yes.</p> <p>5 Q Whose handwriting is on the rest of this</p> <p>6 paper?</p> <p>7 A That would be D D's Plumbing, this Chuck</p> <p>8 Bonde -- yeah, his last name, B-O-N-D-E-L-I-D, I don't</p> <p>9 know how to pronounce that.</p> <p>10 Q Okay. And Chuck was the plumber who</p> <p>11 worked -- who runs D D's Plumbing?</p> <p>12 A Yes.</p> <p>13 Q And when did he give you this piece of</p> <p>14 paper?</p> <p>15 A Exact date, I do not know.</p> <p>16 Q Did he give it to you at the same time he</p> <p>17 gave you what's on Exhibit 10?</p> <p>18 A No. He wrote this information down during</p> <p>19 one of the three leaks he repaired.</p> <p>20 Q Okay. So during the time he was out working</p> <p>21 on your home, he wrote down this information for you;</p> <p>22 is that correct?</p> <p>23 A Yes.</p> <p>24 Q Okay. Did you ask him to write particular</p> <p>25 information down for you or did he just start writing</p>
<p style="text-align: right;">Page 79</p> <p>1 here between all of this.</p> <p>2 A Right.</p> <p>3 Q And you said -- and D D's Plumbing was sent</p> <p>4 out by your warranty company?</p> <p>5 A Home Shield, yes.</p> <p>6 Q Okay. And you said that after he did some</p> <p>7 repairs for you, they started using a different</p> <p>8 plumber; is that correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. Is this the -- did you ever receive</p> <p>11 any invoices from D D's Plumbing regarding the work</p> <p>12 that he did for you?</p> <p>13 A Those were sent back and retained by Home</p> <p>14 Shield.</p> <p>15 Q Okay. So you don't know how much he charged</p> <p>16 for that work?</p> <p>17 A No.</p> <p>18 Q And this is something that he offered to give</p> <p>19 to you himself. He didn't do this through the</p> <p>20 insurance company?</p> <p>21 A No.</p> <p>22 Q Okay.</p> <p>23 (Exhibit No. 11 was marked.)</p> <p>24 Q (By Ms. Stephens) I'm going to hand you</p> <p>25 what's been marked as Exhibit 11. This document bears</p>	<p style="text-align: right;">Page 81</p> <p>1 this down for you and then give you this?</p> <p>2 A I don't recall who asked who. I do know that</p> <p>3 he said to look into this, here's this information, he</p> <p>4 had a piece of pipe and he transferred the information</p> <p>5 onto this piece of paper for me.</p> <p>6 Q Okay. Is this piece of paper the first you</p> <p>7 had ever heard of NIBCO?</p> <p>8 A Yes.</p> <p>9 Q Okay. And I see that's circled there at the</p> <p>10 top with a question mark. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Did you write that question mark?</p> <p>13 A He wrote it, because he couldn't read it very</p> <p>14 well on the plumbing.</p> <p>15 Q Okay.</p> <p>16 A It was faded.</p> <p>17 Q Okay. And there's -- next to it there's a</p> <p>18 4-3-07-1, date of manu, period.</p> <p>19 A Yes.</p> <p>20 Q Okay. What do you understand that to mean?</p> <p>21 A The date that the NIBCO plumbing was</p> <p>22 manufactured.</p> <p>23 Q Okay. Did he indicate to you that he could</p> <p>24 tell where that plumbing was purchased?</p> <p>25 A From NIBCO, I don't -- you know.</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 82</p> <p>1 Q Do you know whether NIBCO sells directly to</p> <p>2 homeowners or not?</p> <p>3 A No.</p> <p>4 Q Okay. So you don't know where the NIBCO</p> <p>5 plumbing in your home on Dusty Trail was purchased?</p> <p>6 A No.</p> <p>7 Q Okay. You just believe it was manufactured</p> <p>8 by NIBCO?</p> <p>9 A Yes.</p> <p>10 Q Do you know what the rest of the information</p> <p>11 on this piece of paper, Exhibit 11, indicates?</p> <p>12 A Only from what it says and my interpretation</p> <p>13 of it.</p> <p>14 Q Okay. Let's go to the next line, it says,</p> <p>15 ASTM and it has various letters and numbers. What is</p> <p>16 that information on that second line mean to you?</p> <p>17 A To me, nothing.</p> <p>18 Q Okay. What about the next little section,</p> <p>19 starts with NSF-UP, does that section mean anything to</p> <p>20 you to the extent you can read it?</p> <p>21 A I understand that he must have read 100 PSI,</p> <p>22 I understand that. 180 degrees Fahrenheit. 160 PSI at</p> <p>23 73 degrees. And I think that that V -- that other</p> <p>24 designation was on the pipe itself, he just copied it</p> <p>25 off the pipe.</p>	<p style="text-align: right;">Page 84</p> <p>1 right here.</p> <p>2 Q Okay.</p> <p>3 A It did have copper bands and it did have</p> <p>4 Dura-Pex fittings.</p> <p>5 Q And it says below that in -- below it says,</p> <p>6 ASTM-F 1807 - brass. Do you see that?</p> <p>7 A Yes.</p> <p>8 Q What does that mean to you?</p> <p>9 A I'm thinking that means brass fittings.</p> <p>10 Q Okay. So you believe he told you that there</p> <p>11 were brass Dura-Pex fittings in your home?</p> <p>12 A Verbally, I don't remember him telling me.</p> <p>13 This is the paper I got from him.</p> <p>14 Q Okay. So you don't know one way or the other</p> <p>15 whether that's true or not?</p> <p>16 A No.</p> <p>17 Q Below it that it says, Hot water on pumped</p> <p>18 circulation system?</p> <p>19 A Yes.</p> <p>20 Q What does that mean to you?</p> <p>21 A Continuously hot flow of the circulation</p> <p>22 system.</p> <p>23 Q Okay. And that's what we discussed</p> <p>24 previously that circulation pump is continuously</p> <p>25 circulating hot water in your home?</p>
<p style="text-align: right;">Page 83</p> <p>1 Q So you believe some of this information is</p> <p>2 just information he copied off of pipe for you?</p> <p>3 A Yes.</p> <p>4 Q Okay. And what does that 100 PSI at 180 mean</p> <p>5 to you?</p> <p>6 A Maximum pressure that the pipe would</p> <p>7 withstand at a water temperature of 180 degrees.</p> <p>8 Q Okay. What about the 160 PSI 73 degrees</p> <p>9 Fahrenheit, what does that mean to you?</p> <p>10 A I'm guessing it would have to be the cold</p> <p>11 water side.</p> <p>12 Q Okay. Below that section there's like a</p> <p>13 number, it looks 403, that may be a date again, can you</p> <p>14 read that?</p> <p>15 A Yes.</p> <p>16 Q Okay. And then there's like an FT some --</p> <p>17 again, you believe this is information that was written</p> <p>18 on the pipe that he saw in your home?</p> <p>19 A Yes.</p> <p>20 Q Okay. Below that it says, Copper bands,</p> <p>21 Dura-Pex fittings. Do you see that?</p> <p>22 A Yes.</p> <p>23 Q What do you think that information means?</p> <p>24 A That's something that I didn't know. It's --</p> <p>25 you asked earlier, and I didn't know, but I see it</p>	<p style="text-align: right;">Page 85</p> <p>1 A I'm not sure about continuous. All I know is</p> <p>2 I get hot water immediately.</p> <p>3 Q Okay. It says below that, Water lines are</p> <p>4 installed in a non-freeze area of the house, inside</p> <p>5 well insulated area. What does that mean to you?</p> <p>6 A My house is very well insulated. It's -- the</p> <p>7 pipes are wrapped, in some cases, buried under</p> <p>8 insulation spray.</p> <p>9 Q Okay. Other than when the lines in your home</p> <p>10 are running like down the walls to get to sinks or</p> <p>11 drains, is the piping -- is there some in the attic?</p> <p>12 A There's no attic in my house.</p> <p>13 Q Okay. So the piping in your home, is it</p> <p>14 within the walls itself typically?</p> <p>15 A Yes.</p> <p>16 Q Okay. And what about -- I know that you said</p> <p>17 you have that garage area, the basement or on the</p> <p>18 lowest level; is that correct?</p> <p>19 A Yes.</p> <p>20 Q Is there any piping within any sort of the</p> <p>21 foundation of your home, to your knowledge?</p> <p>22 A No.</p> <p>23 Q Okay. So it's all within the walls or within</p> <p>24 the ceilings between levels; is that correct?</p> <p>25 A Yes.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 86</p> <p>1 Q Okay. At the bottom here, I believe that</p> <p>2 it's a C-Bondelid, which is his name. Do you see</p> <p>3 that?</p> <p>4 A Yes.</p> <p>5 Q And there's TX M-18340. Does that mean</p> <p>6 anything to you?</p> <p>7 A No, but my guess is that it would be his</p> <p>8 certification or plumbing certification number.</p> <p>9 Q Okay.</p> <p>10 A To let you know he's a plumber, licensed</p> <p>11 plumber.</p> <p>12 Q Anything else on this Exhibit 11 that you</p> <p>13 would like to explain to me today your interpretation</p> <p>14 of?</p> <p>15 A No.</p> <p>16 Q Okay. Again, you believe that this piece of</p> <p>17 paper was written out by Mr. Bondelid at the time of</p> <p>18 one of the leaks that he came out to fix in your</p> <p>19 home?</p> <p>20 A Yes.</p> <p>21 Q Does Exhibit 11 refresh your recollection at</p> <p>22 all about when the leaks started in your home?</p> <p>23 A No.</p> <p>24 Q All right.</p> <p>25 (Exhibit No. 12 was marked.)</p>	<p style="text-align: right;">Page 88</p> <p>1 A Yes.</p> <p>2 Q -- that's copied here?</p> <p>3 Okay. Can you tell me what you</p> <p>4 believe that handwriting says on Exhibit 12 on the</p> <p>5 left-hand side?</p> <p>6 A Oh, it probably said Shipping -- Shipping</p> <p>7 cost of bad NIBCO pipe.</p> <p>8 Q And this -- what's the date of this receipt</p> <p>9 on the left-hand side of Exhibit 12?</p> <p>10 A 10 -- excuse me, 10/21/14.</p> <p>11 Q Okay. Do you believe this is a receipt</p> <p>12 for -- who do you believe you were shipping this NIBCO</p> <p>13 pipe to as reflected in -- on the receipt on the</p> <p>14 left-hand side of Exhibit 12?</p> <p>15 A To the lawyer's representative.</p> <p>16 Q Okay. And that was in October of 2014 you</p> <p>17 believe?</p> <p>18 A Yes, that's what it says.</p> <p>19 Q Okay. How much pipe did you send them, like</p> <p>20 how many pieces, do you know?</p> <p>21 A No.</p> <p>22 Q Do you know what areas of the home that pipe</p> <p>23 came from?</p> <p>24 A No, it was a piece that was bad and removed,</p> <p>25 at which time, I do not remember.</p>
<p style="text-align: right;">Page 87</p> <p>1 Q (By Ms. Stephens) I'm going to hand you what</p> <p>2 I'm going to mark as Exhibit 12. This Exhibit 12 bears</p> <p>3 the Bates numbers McMahon 000010. Do you recognize</p> <p>4 Exhibit No. 12?</p> <p>5 A Yes.</p> <p>6 Q Okay. And that's your handwriting at the top</p> <p>7 that says, Attachment 9?</p> <p>8 A Yes.</p> <p>9 Q Okay. Is that also your handwriting that</p> <p>10 Expenses for mailing you samples?</p> <p>11 A Yes.</p> <p>12 Q Okay. Now, I believe there's copied on here</p> <p>13 two receipts; is that correct?</p> <p>14 A Yes.</p> <p>15 Q Okay. And there's also some handwriting on</p> <p>16 the left-hand side. Do you see that?</p> <p>17 A Some of it's missing.</p> <p>18 Q Okay. Can you tell me what you think that</p> <p>19 says or might have said if we had a full copy?</p> <p>20 MR. SHAMBERG: Object to form.</p> <p>21 Foundation.</p> <p>22 Q (By Ms. Stephens) Is that your handwriting,</p> <p>23 sir?</p> <p>24 A The end of it.</p> <p>25 Q Okay. Have you seen this receipt before --</p>	<p style="text-align: right;">Page 89</p> <p>1 Q Okay. Do you know whether it was red or</p> <p>2 blue, do you know the color of it?</p> <p>3 A It was the red NIBCO.</p> <p>4 Q Did it have a fitting attached to it still or</p> <p>5 did you just send the pipe itself?</p> <p>6 A Just the pipe, because that's where the split</p> <p>7 was.</p> <p>8 Q Okay. You believe you sent just one piece of</p> <p>9 pipe or did you send multiple?</p> <p>10 A I believe I sent more than one.</p> <p>11 Q Okay. So the pipe that was removed from your</p> <p>12 home when it was replumbed by Shanks Plumbing, what</p> <p>13 happened to the pieces of pipe that were removed at</p> <p>14 that time?</p> <p>15 A I still have -- well, all of the bad piping,</p> <p>16 I believe, was sent to them.</p> <p>17 Q To them, who is them?</p> <p>18 A The lawyers.</p> <p>19 Q Okay.</p> <p>20 A Some of the piping may have gotten, you know,</p> <p>21 it was a bad piece of pipe, the plumbers have a</p> <p>22 tendency to just throw it away, but I did retain a few</p> <p>23 pieces.</p> <p>24 Q So you retained a few pieces, where did you</p> <p>25 keep those pieces?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 90</p> <p>1 A In the garage.</p> <p>2 Q Did you keep them in a box or did you just</p> <p>3 keep them on the floor, where did you keep them?</p> <p>4 A I have a very big garage, somewhere in my</p> <p>5 garage where I could see them whenever I needed them.</p> <p>6 Q Okay. Did those pieces of pipe that you kept</p> <p>7 after the replumbing have fittings attached to them or</p> <p>8 were they just pipes?</p> <p>9 A The ones I mailed in, I do not believe had</p> <p>10 fittings.</p> <p>11 Q What about the ones that you kept in your</p> <p>12 garage that you did not mail?</p> <p>13 A They're still in the garage.</p> <p>14 Q Okay. Were those pieces that were -- did</p> <p>15 those pieces of pipe that were kept in your garage,</p> <p>16 were those looked at during the inspection that was --</p> <p>17 that occurred this year?</p> <p>18 A When both sides came to my house?</p> <p>19 Q Correct.</p> <p>20 A Yes.</p> <p>21 Q Okay. And so those were the pieces that were</p> <p>22 sampled by either side and maybe taken with them; is</p> <p>23 that correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. And again, you believe that the pipe,</p>	<p style="text-align: right;">Page 92</p> <p>1 them after that; is that correct?</p> <p>2 A Yes.</p> <p>3 Q Okay. Does Exhibit 12 help refresh your</p> <p>4 recollection about when the first leak occurred in your</p> <p>5 house on Dusty Trail?</p> <p>6 A No.</p> <p>7 Q Okay. And the information that will help</p> <p>8 refresh your recollection is the piece of paper that we</p> <p>9 are hopefully going to see after a break; is that</p> <p>10 correct?</p> <p>11 A Yes.</p> <p>12 MS. STEPHENS: All right. Let's go</p> <p>13 ahead and take that break and we'll get that document</p> <p>14 for you, okay?</p> <p>15 THE WITNESS: Thank you.</p> <p>16 (A recess was taken from 10:02 to 10:11.)</p> <p>17 (Exhibit No. 13 was marked.)</p> <p>18 Q (By Ms. Stephens) We are back on the record,</p> <p>19 and just one question, Mr. McMahon, again, you</p> <p>20 understand that you're still under oath?</p> <p>21 A Yes.</p> <p>22 MS. STEPHENS: And coming back from</p> <p>23 break Mr. Shamberg asked if he could make a statement</p> <p>24 on the record and he's going to do that now.</p> <p>25 MR. SHAMBERG: So Mr. McMahon</p>
<p style="text-align: right;">Page 91</p> <p>1 whatever you sent to the lawyers in this case, was just</p> <p>2 a piece of pipe with no fittings attached; is that</p> <p>3 correct?</p> <p>4 A To the best of my knowledge, yes.</p> <p>5 Q Do you know what happened to that pipe, was</p> <p>6 it sent back to you at any point?</p> <p>7 A No.</p> <p>8 Q Okay. Now, the receipt on the right-hand</p> <p>9 side of this, Exhibit 12, what was that receipt for?</p> <p>10 A Sending another piece.</p> <p>11 Q Okay. So you believe you sent -- if I can</p> <p>12 read this correctly, I believe this is dated October</p> <p>13 2nd, 2014. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Okay. So you believe on two different</p> <p>16 instances you sent pipe to your counsel in this case;</p> <p>17 is that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay. Do you know how many pieces of pipe</p> <p>20 you sent on October 2nd, 2014?</p> <p>21 A No.</p> <p>22 Q Do you know whether you ever received those</p> <p>23 pieces of pipe back?</p> <p>24 A No.</p> <p>25 Q So you don't know what your counsel did with</p>	<p style="text-align: right;">Page 93</p> <p>1 referred to a list of dates that he had made that would</p> <p>2 refresh his recollection as to when the leaks occurred.</p> <p>3 That list was part of a document that was provided to</p> <p>4 plaintiffs' counsel's retained expert in this matter.</p> <p>5 It's plaintiffs' counsel's position that that document</p> <p>6 is covered by the attorney/client privilege and the</p> <p>7 attorney work product privilege. In order to refresh</p> <p>8 Mr. McMahon's recollection and to provide effective</p> <p>9 testimony at this deposition, I have waived those</p> <p>10 privileges with respect to a certain portion of that</p> <p>11 document, which has been reproduced as plaintiff's</p> <p>12 exhibit -- or as Exhibit 13, that production of that</p> <p>13 information is not subject to any other waiver and</p> <p>14 plaintiffs do not waive any other privilege that</p> <p>15 attaches to the remaining contents of Exhibit 13.</p> <p>16 MS. STEPHENS: Okay. From defendant</p> <p>17 NIBCO's perspective, while we appreciate the production</p> <p>18 of this particular document, we don't necessarily agree</p> <p>19 with Mr. Shamberg's statement, but we'll take up those</p> <p>20 issues at a later date and we're going to move forward</p> <p>21 with the deposition and Exhibit 13 as produced, okay?</p> <p>22 MR. SHAMBERG: Fair enough.</p> <p>23 Q (By Ms. Stephens) All right. Mr. McMahon,</p> <p>24 in front of you you have what's been marked Exhibit 13.</p> <p>25 Is this the document as stated by your counsel that</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 94</p> <p>1 you've been referring to today that will help you</p> <p>2 answer some of my questions?</p> <p>3 A Yes.</p> <p>4 Q Okay. And does Exhibit 13 refresh your</p> <p>5 recollection about when the leaks occurred in your home</p> <p>6 and where?</p> <p>7 A Yes.</p> <p>8 Q Okay. Now, this document that's been</p> <p>9 produced to me today has some typewritten information</p> <p>10 and then some handwritten information. Is this your</p> <p>11 handwriting on Exhibit 13?</p> <p>12 A Yes.</p> <p>13 Q Okay. And when you were preparing the</p> <p>14 information that's handwritten on Exhibit 13, were you</p> <p>15 referring to any other documents to help you do that?</p> <p>16 A The repairs each time they were done.</p> <p>17 Q Okay. So what documents -- what do you mean</p> <p>18 the repairs each time they were done, were you looking</p> <p>19 at invoices or other things that you have?</p> <p>20 A I believe they would be invoices with the</p> <p>21 dates on them, for each time Home Shield and -- sent</p> <p>22 the repair work.</p> <p>23 Q Okay. Do you still have those documents that</p> <p>24 you used to help you prepare Exhibit 13?</p> <p>25 A I may have some, but Home Shield would have</p>	<p style="text-align: right;">Page 96</p> <p>1 caption that I believe refers to this lawsuit and then</p> <p>2 it says, Plaintiff Michael McMahon's objections and</p> <p>3 responses to defendant NIBCO's first set of</p> <p>4 interrogatories. Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Do you know what an interrogatory is?</p> <p>7 A No.</p> <p>8 Q Well, I'm going to help explain and your</p> <p>9 counsel can clarify if he thinks I'm being incorrect,</p> <p>10 but in a lawsuit we -- we call them interrogatories,</p> <p>11 but they're really just questions. And in a lawsuit,</p> <p>12 one side can send to the other side an interrogatory or</p> <p>13 certain questions seeking certain information, okay?</p> <p>14 A Okay.</p> <p>15 Q And we sometimes receive back objections and</p> <p>16 sometimes we receive back answers or some combination</p> <p>17 of that, okay?</p> <p>18 A (Witness nods head.)</p> <p>19 Q Do you recall being sent by your counsel some</p> <p>20 questions and you helped provide some information that</p> <p>21 perhaps ended up in this document, do you recall doing</p> <p>22 that?</p> <p>23 A I'm sorry, three years ago, I'm sure I did,</p> <p>24 but I can't specifically remember.</p> <p>25 Q Well, let's look at the date on Page 10 of</p>
<p style="text-align: right;">Page 95</p> <p>1 all of them. They paid for these.</p> <p>2 Q Okay. I'm going to ask to the extent that</p> <p>3 you have those documents in your possession still, that</p> <p>4 you please provide those to counsel and then counsel</p> <p>5 can make a determination about whether those need to be</p> <p>6 produced as part of this, okay?</p> <p>7 A Okay.</p> <p>8 Q Thank you. Again, that's the same Home</p> <p>9 Shield policy -- that if you look at Exhibit 4 that I</p> <p>10 gave you previously, do you see at the top of this, at</p> <p>11 least it says, Subject: Your USAA property claim. Is</p> <p>12 that -- when you're referring to your Home Shield</p> <p>13 policy, is that the policy -- is this the policy that</p> <p>14 you believe --</p> <p>15 A No, this is my homeowners insurance.</p> <p>16 Q Okay. So you believe that the American</p> <p>17 Shield policy has a different number; is that</p> <p>18 correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. I'm going to hand you what's been</p> <p>21 marked Exhibit 3. We have not referred to this yet</p> <p>22 today. You can flip through it if you need to, but</p> <p>23 does Exhibit 3 look familiar to you?</p> <p>24 A Yes.</p> <p>25 Q Okay. At least on the first page there's a</p>	<p style="text-align: right;">Page 97</p> <p>1 this document, please. I'm going to represent to you</p> <p>2 that it says date November 2nd, 2015, and I'm going to</p> <p>3 represent to you that that was the date that these</p> <p>4 responses were sent to me or my law firm, okay?</p> <p>5 A Okay.</p> <p>6 Q Do you believe that some time prior to that</p> <p>7 you might have provided some information that ended up</p> <p>8 in this document?</p> <p>9 A Yes.</p> <p>10 Q Okay. But you don't recall what date that</p> <p>11 was?</p> <p>12 A No.</p> <p>13 Q Okay. Let's look at -- we'll call them</p> <p>14 interrogatories and they're numbered. I would like to</p> <p>15 look at Page 7 and 8. And there's a question asked,</p> <p>16 No. 14, regarding insurance proceeds. Do you see that</p> <p>17 question?</p> <p>18 A Yes.</p> <p>19 Q No. 14 and there's an answer, and there's</p> <p>20 some stuff in the first paragraph that says, Subject to</p> <p>21 and without waiving any general objection. Plaintiff</p> <p>22 responds as follows. Can you read to me the rest of</p> <p>23 that information that was provided in that answer on</p> <p>24 No. 14?</p> <p>25 A On 14?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 98</p> <p>1 Q In response to No. 14 below answer.</p> <p>2 A Oh, where it says answer, okay.</p> <p>3 Q Yeah. It starts, American Home Shield?</p> <p>4 A Okay.</p> <p>5 Q So it says, American Home Shield covered some</p> <p>6 costs of the individual leaks. Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And then it says, Address: 889 Ridge Lake</p> <p>9 Boulevard, Memphis, Tennessee 38210. Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Okay. And then it says, Policy</p> <p>12 No. 156978882. Do you believe that's still the</p> <p>13 American Home Shield policy that you have related to</p> <p>14 your home?</p> <p>15 A Well, without knowing the exact number, I</p> <p>16 would say it would be.</p> <p>17 Q Okay. So you still have an American Home</p> <p>18 Shield policy for your house; is that correct?</p> <p>19 A Yes.</p> <p>20 Q And you call that a home warranty, is that</p> <p>21 how you describe it?</p> <p>22 A Yes.</p> <p>23 Q And that's different and apart from the home</p> <p>24 insurance that you have on your home?</p> <p>25 A Right, they do not cover plumbing.</p>	<p style="text-align: right;">Page 100</p> <p>1 be able to access that information?</p> <p>2 A Yes.</p> <p>3 Q Okay. Do you believe you still have the same</p> <p>4 policy today that you had back in 2013 when you bought</p> <p>5 the home?</p> <p>6 A Yes.</p> <p>7 Q Okay. For both your home insurance and your</p> <p>8 Home Shield policy?</p> <p>9 A Yes.</p> <p>10 Q Okay. And you bought those policies at the</p> <p>11 time you bought the house? You signed up for those</p> <p>12 policies; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. And were you aware at the time that</p> <p>15 you bought those two policies that certain things</p> <p>16 related to your plumbing were not covered?</p> <p>17 A No.</p> <p>18 Q Okay. And so when you bought those policies,</p> <p>19 did you buy them through an insurance agent?</p> <p>20 A We bought them through the -- USAA.</p> <p>21 Everything I have is under USAA, all insurance, so we</p> <p>22 put our homeowners insurance under that, also. We have</p> <p>23 automobiles, everything under USAA.</p> <p>24 Q Okay. Do you have an insurance agent at the</p> <p>25 USAA that you -- at USAA that you work with?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q Okay. So your home insurance does not cover</p> <p>2 plumbing; is that correct?</p> <p>3 A Neither one.</p> <p>4 Q Neither one does?</p> <p>5 A No. Damage to plumbing, it does. They would</p> <p>6 cover. My homeowners insurance nor my -- Home Shield</p> <p>7 only paid for the repairs.</p> <p>8 Q Okay. So whatever insurance you have on your</p> <p>9 home only covers repairs to the plumbing itself, it</p> <p>10 does not cover, you believe, the damage caused by any</p> <p>11 plumbing issues you might have?</p> <p>12 A Damage was covered after my deductible.</p> <p>13 Q Okay.</p> <p>14 A Out-of-pocket expenses.</p> <p>15 Q So who covered the damage to the property,</p> <p>16 which policy, your homeowners insurance or your</p> <p>17 American Shield policy?</p> <p>18 A USAA homeowners.</p> <p>19 Q Okay. And so what, if anything, does your</p> <p>20 Home Shield policy cover, to your knowledge?</p> <p>21 A Problems with the house and repair. They</p> <p>22 have a sheet that only cover certain items in the</p> <p>23 house.</p> <p>24 Q Okay. If you needed to get access to your</p> <p>25 homeowners policy or your Home Shield policy, would you</p>	<p style="text-align: right;">Page 101</p> <p>1 A No, ma'am, it's so large, it's whoever I</p> <p>2 get -- whoever I get when I call.</p> <p>3 Q So it wasn't until after you had some leaks</p> <p>4 in your home that you learned that certain things</p> <p>5 related to plumbing are not covered; is that correct?</p> <p>6 A Yes.</p> <p>7 Q Was that a surprise to you?</p> <p>8 A Yes.</p> <p>9 Q So you believed the policies that you had</p> <p>10 from insurance were going to cover some of the damages</p> <p>11 to your home?</p> <p>12 A Yes.</p> <p>13 Q Okay. Do you believe if you asked American</p> <p>14 Home Shield for information related to claims that</p> <p>15 you've made to them, that they would provide those</p> <p>16 documents to you?</p> <p>17 A I would assume they would. I don't know why</p> <p>18 they would not.</p> <p>19 Q Okay. And so you believe you could get</p> <p>20 information about what payments they have made to you</p> <p>21 related to any of these plumbing issues that you've</p> <p>22 had?</p> <p>23 A They made no payments to me.</p> <p>24 Q Okay. So American Home Shield has made no</p> <p>25 payments to you?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 102</p> <p>1 A No.</p> <p>2 Q Have they paid the plumbers that have done</p> <p>3 the work at your home directly?</p> <p>4 A After my deductible, yes.</p> <p>5 Q Okay. What was your deductible on that</p> <p>6 policy?</p> <p>7 A I believe it was \$75.</p> <p>8 Q Okay. Is that for each instance or just one</p> <p>9 deductible?</p> <p>10 A It's each instance -- if there was a leak and</p> <p>11 then a followup, they would not charge me the \$75</p> <p>12 twice.</p> <p>13 Q Okay. Do you believe you've paid that</p> <p>14 deductible only once related to the leaks in your</p> <p>15 home?</p> <p>16 A No.</p> <p>17 Q Okay. How many times have you paid that</p> <p>18 deductible?</p> <p>19 A Again, can I refer to this?</p> <p>20 Q Yes, please. Exhibit 13 is what you're</p> <p>21 talking about?</p> <p>22 A Yeah. This only has the date on it. I know</p> <p>23 on occasion when you see two dates close to each other,</p> <p>24 there was a follow-up visit from the -- well, for</p> <p>25 instance, the last two, one dated 3/30/14 and one</p>	<p style="text-align: right;">Page 104</p> <p>1 A Yes.</p> <p>2 Q Okay. But otherwise, the cost of the</p> <p>3 plumbing repairs in your home were covered under your</p> <p>4 insurance policy; is that correct?</p> <p>5 A No.</p> <p>6 Q The plumbing repairs themselves were not</p> <p>7 covered?</p> <p>8 A I had to pay the deductible, so that was my</p> <p>9 part.</p> <p>10 Q Okay. But I'm asking -- I said otherwise,</p> <p>11 other than the deductible, the cost of the plumbing</p> <p>12 repairs in your home were covered by your American Home</p> <p>13 Shield policy; is that correct?</p> <p>14 A The damage from the plumbing was covered.</p> <p>15 The pipe replacing the plumbing, they would not pay for</p> <p>16 that.</p> <p>17 Q What about the repair plumbing themselves,</p> <p>18 before the repiping, each time you had a leak, did</p> <p>19 someone come out to help fix that leak?</p> <p>20 A Yes.</p> <p>21 Q Okay. Was that work covered by your American</p> <p>22 Home Shield policy?</p> <p>23 A Yes.</p> <p>24 Q Okay. So you paid a \$75 deductible for the</p> <p>25 five times that work was done, but other than that, the</p>
<p style="text-align: right;">Page 103</p> <p>1 3/21/14, there were two leaks back to back, and I only</p> <p>2 had to pay the deductible because that was a recall on</p> <p>3 the second one.</p> <p>4 Q Okay. As part of this lawsuit against NIBCO,</p> <p>5 are you seeking reimbursement of that deductible that</p> <p>6 you've paid?</p> <p>7 A Yes.</p> <p>8 Q Can you tell me exactly how much in a</p> <p>9 deductible you've paid to American Home Shield to</p> <p>10 date?</p> <p>11 A Not without doing the math.</p> <p>12 Q Okay. Well, can you do it right now?</p> <p>13 A Okay. Five -- five visits at \$75 deductibles</p> <p>14 that should be that amount.</p> <p>15 Q Okay. So if we did the math, that would</p> <p>16 be?</p> <p>17 A I'm not a calculator.</p> <p>18 Q \$375 maybe?</p> <p>19 A Yeah, I would say.</p> <p>20 Q Something --</p> <p>21 A Close to that.</p> <p>22 Q -- close to that?</p> <p>23 A Yes.</p> <p>24 Q And you're seeking those damages from NIBCO</p> <p>25 in this lawsuit?</p>	<p style="text-align: right;">Page 105</p> <p>1 cost of the repair itself was covered, correct?</p> <p>2 A Yes.</p> <p>3 Q For instance, you never received an invoice</p> <p>4 from D D's Plumbing when they came out and did a repair</p> <p>5 to your home, correct? They didn't expect you to pay</p> <p>6 them?</p> <p>7 A No. If they gave me a copy of the thing they</p> <p>8 sent to the insurance company, I don't recall.</p> <p>9 Q Okay. But they didn't say, hey, you need to</p> <p>10 pay me this, they looked to the insurance company for</p> <p>11 that?</p> <p>12 A I had to pay them the deductible on spot.</p> <p>13 Q You had to pay the deductible to the</p> <p>14 plumber?</p> <p>15 A To the plumber.</p> <p>16 Q Okay. So each time D D's came out, let's</p> <p>17 assume they came out three times, just for the purpose</p> <p>18 of my question, you had to give Mr. Bondelid a \$75</p> <p>19 check or cash, for instance, for that visit; is that</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q And then you never received from him a</p> <p>23 request for payment beyond that; is that correct?</p> <p>24 A No.</p> <p>25 Q And the same thing for whatever plumbers came</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 106</p> <p>1 out to your property that were hired by American Home</p> <p>2 Shield, they looked -- asked you for the deductible,</p> <p>3 you paid that on the spot, and then otherwise, they</p> <p>4 were paid by your insurance company?</p> <p>5 A Yes.</p> <p>6 Q Okay. Now, for the property damage itself to</p> <p>7 your home, not the plumbing itself, did you receive any</p> <p>8 reimbursement from your insurance company for that</p> <p>9 damage?</p> <p>10 A Yes.</p> <p>11 Q Okay. Which insurance company, your home</p> <p>12 insurance?</p> <p>13 A USAA, home.</p> <p>14 Q Okay. Do you know how much reimbursement you</p> <p>15 received from USAA?</p> <p>16 A I don't recall the exact figures.</p> <p>17 Q Is it several thousand dollars?</p> <p>18 A Yes, it was.</p> <p>19 Q Okay. Do you know what your deductible was</p> <p>20 under that policy?</p> <p>21 A It was 10 percent, which is somewhere around</p> <p>22 \$3,800 or something like that, I don't recall the exact</p> <p>23 number.</p> <p>24 Q Do you pay that deductible once or</p> <p>25 multiple --</p>	<p style="text-align: right;">Page 108</p> <p>1 insurance company as part of making a claim?</p> <p>2 A I believe, yes.</p> <p>3 Q But they wouldn't approve that estimate, is</p> <p>4 that correct, that -- for the full amount?</p> <p>5 A No, again, they expected me to pay the</p> <p>6 deductible out of pocket.</p> <p>7 Q Okay. Minus the deductible, you believe out</p> <p>8 of pocket you had to pay more than you were reimbursed</p> <p>9 for?</p> <p>10 A Yes.</p> <p>11 Q Okay. Are you seeking that extra</p> <p>12 out-of-pocket expense as part of this lawsuit?</p> <p>13 A Yes.</p> <p>14 Q How much is that?</p> <p>15 A I don't know the exact amount.</p> <p>16 Q How would you be able to determine that</p> <p>17 amount? Would any of these documents help you?</p> <p>18 A By reviewing -- yeah, by reviewing some of</p> <p>19 the documents, I could come up with a close figure.</p> <p>20 Q The documents that have been produced and</p> <p>21 we've looked at today or some other documents?</p> <p>22 A I believe the documents you have today.</p> <p>23 Q Okay.</p> <p>24 A Do I need to be looking this up right now?</p> <p>25 Q I would like to know, yes, what documents.</p>
<p style="text-align: right;">Page 107</p> <p>1 A I'm sorry, I mean, 1 percent, not 10</p> <p>2 percent.</p> <p>3 Q 1 percent of what, the value of your home?</p> <p>4 A Right.</p> <p>5 Q So your home is worth approximately \$380,000</p> <p>6 and so the deductible is about \$3,800?</p> <p>7 A Exactly, yeah.</p> <p>8 Q Again, I understand these are approximations.</p> <p>9 A Right, approximate.</p> <p>10 Q Did you have to pay that 1 percent deductible</p> <p>11 once to USAA or did you have to -- or not necessarily</p> <p>12 to them, but was that once or was that multiple</p> <p>13 times?</p> <p>14 A Once.</p> <p>15 Q Okay. So other than that deductible, did you</p> <p>16 have to pay any out-of-pocket expenses related to the</p> <p>17 property damage at your home on Dusty Trail as a result</p> <p>18 of these plumbing leaks?</p> <p>19 A Yes, because the estimate was higher than</p> <p>20 what I got.</p> <p>21 Q Can you explain what you mean, please?</p> <p>22 A I think the repair work was up in the 10,000</p> <p>23 range and I think I only got around -- approximately</p> <p>24 around 7,000 from them.</p> <p>25 Q Did you provide that estimate to the</p>	<p style="text-align: right;">Page 109</p> <p>1 Sir, I'm curious about what damages you're claiming</p> <p>2 from NIBCO in this lawsuit, and so I would like to know</p> <p>3 exactly what those damages are?</p> <p>4 A Okay. Looks like my American -- excuse me,</p> <p>5 I've got the same problem. AmeriClaim, after the</p> <p>6 deductibles and everything, I believe I received a</p> <p>7 check for that 7,885.30.</p> <p>8 Q Did you receive any other money from</p> <p>9 AmeriClaim?</p> <p>10 A No. And the repair, according to Cunningham,</p> <p>11 was 9,908, so I had to pay the difference there. I had</p> <p>12 to pay -- Attachment 4, it came in for restoration --</p> <p>13 the people came in, I had to pay that 1,064.40. I also</p> <p>14 had to pay the plumbers 8,670 -- I can't tell if it's a</p> <p>15 six -- 8,675, plus small amounts of shipping charges</p> <p>16 for sending the plumbing.</p> <p>17 Q I'm just making some notes, sorry.</p> <p>18 A I'm sorry, I didn't write down those</p> <p>19 numbers.</p> <p>20 Q No, you're fine. I'm doing it for you. Just</p> <p>21 one second. Okay. So I'm going to try to recreate</p> <p>22 what you just said to me using some exhibit numbers.</p> <p>23 So you came up with that amount you believe you</p> <p>24 received from the insurance company regarding</p> <p>25 Exhibit 5, is that correct, that \$7,885.30?</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 110</p> <p>1 A Yes.</p> <p>2 Q You believe that's the extent of the money</p> <p>3 you were paid by your insurance company for the</p> <p>4 property damage to your home; is that correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. Now, you said, referring to Exhibit 6,</p> <p>7 that Cunningham charged you \$9,908; is that correct?</p> <p>8 A Yes, according to this receipt.</p> <p>9 Q So you're seeking the difference between</p> <p>10 those amounts as part of your damages?</p> <p>11 A Yes.</p> <p>12 Q Okay. And then you referred to Exhibit 7,</p> <p>13 which was the remediation, the drying out of your home,</p> <p>14 and you said that you were not reimbursed for that by</p> <p>15 your insurance company; is that correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. Did you seek reimbursement for that</p> <p>18 from your insurance company? Exhibit 7, it looks like</p> <p>19 this.</p> <p>20 A Oh, okay.</p> <p>21 Q There you go.</p> <p>22 A I don't recall if I got anything back from</p> <p>23 them or not, because I put a note at the top that said</p> <p>24 out of pocket, so...</p> <p>25 Q But there's also a note down here in some</p>	<p style="text-align: right;">Page 112</p> <p>1 Q Do you see that?</p> <p>2 A Uh-huh.</p> <p>3 Q Does that look like a similar number to</p> <p>4 what's handwritten on Exhibit 7? I know there's some</p> <p>5 other --</p> <p>6 A There's -- the first numbers are the same,</p> <p>7 they match to the --</p> <p>8 Q The last three are different?</p> <p>9 A Are different.</p> <p>10 Q But at least it looks similar; is that</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 Q But again, you don't know whose handwriting</p> <p>14 that is writing that policy number on Exhibit 7; is</p> <p>15 that correct?</p> <p>16 A No, it is not mine.</p> <p>17 Q Okay. And you believe you were not</p> <p>18 reimbursed for that by USAA?</p> <p>19 A I don't recall. I don't think so.</p> <p>20 Q Okay. And then the last thing that you -- or</p> <p>21 okay, the next thing you mentioned in your list was the</p> <p>22 replumbing work that's reflected on Exhibit 8 that was</p> <p>23 done by Shanks Plumbing; is that correct? Exhibit 8.</p> <p>24 A Yes.</p> <p>25 Q Okay. And you were not reimbursed for</p>
<p style="text-align: right;">Page 111</p> <p>1 handwriting that says, USAA Policy No. and it has a</p> <p>2 policy number there?</p> <p>3 A Yeah, that's not my handwriting.</p> <p>4 Q You don't know whose handwriting that is?</p> <p>5 A No.</p> <p>6 Q It's not your wife's handwriting?</p> <p>7 A I don't think so.</p> <p>8 Q Okay. Could that be handwriting from someone</p> <p>9 at this Fast Action Restoration or you don't know?</p> <p>10 A No, I paid them directly.</p> <p>11 Q Okay. And somebody wrote a USAA policy</p> <p>12 number on this --</p> <p>13 A Yes.</p> <p>14 Q -- is that correct?</p> <p>15 If you look at Exhibit 5 for me,</p> <p>16 please, it says Attachment 2 at the top?</p> <p>17 A Okay.</p> <p>18 Q Okay. You see in the middle top portion it</p> <p>19 says, Policy number. Do you see that?</p> <p>20 A In the middle at the top?</p> <p>21 Q Kind of the middle of the page, it says</p> <p>22 policy --</p> <p>23 A Oh, I see it, yeah.</p> <p>24 Q It says 010282257?</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 113</p> <p>1 that?</p> <p>2 A No.</p> <p>3 Q Okay. Why did you replumb your house on</p> <p>4 Dusty Trail?</p> <p>5 A I did not want the -- any more leaks in my</p> <p>6 house.</p> <p>7 Q Okay. So you believed that in order to no</p> <p>8 longer have leaks, you needed to replace all of the</p> <p>9 plumbing in your home; is that correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. Did you ask your insurance company,</p> <p>12 either one, before you did that work, whether it would</p> <p>13 be reimbursed?</p> <p>14 A Yes.</p> <p>15 Q Okay. And what did they tell you?</p> <p>16 A Not covered.</p> <p>17 Q Okay. And the last thing that you mentioned</p> <p>18 that you're seeking is reimbursement for your shipping</p> <p>19 costs, is that the amounts that are reflected in</p> <p>20 Exhibit 12?</p> <p>21 A Yes.</p> <p>22 Q So it looks like 23.43 and \$6.40?</p> <p>23 A Okay.</p> <p>24 Q Do you believe me if I read that --</p> <p>25 A Yes, I believe you.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 114</p> <p>1 Q Whatever is reflected on Exhibit 12 is what</p> <p>2 it would be --</p> <p>3 A Okay.</p> <p>4 Q -- right?</p> <p>5 Are you seeking any other damages in</p> <p>6 this lawsuit other than the amounts that we outlined</p> <p>7 just there?</p> <p>8 A All -- I'm seeking all out-of-pocket</p> <p>9 expenses.</p> <p>10 Q Anything else?</p> <p>11 MR. SHAMBERG: Objection, calls for</p> <p>12 a legal conclusion. Go ahead.</p> <p>13 Q (By Ms. Stephens) You can still answer.</p> <p>14 A I don't know what else I could ask for, other</p> <p>15 than the very, very problematic inconvenience of the</p> <p>16 whole situation.</p> <p>17 Q And how would you monetize that, how much</p> <p>18 money do you think that has caused?</p> <p>19 MR. SHAMBERG: Objection, it's a</p> <p>20 legal conclusion.</p> <p>21 Q (By Ms. Stephens) Is worth?</p> <p>22 MR. SHAMBERG: Same objection.</p> <p>23 A I couldn't -- don't want to guess on that.</p> <p>24 Q (By Ms. Stephens) Okay. So you can't tell</p> <p>25 me today how much this -- what you've described as the</p>	<p style="text-align: right;">Page 116</p> <p>1 Q Okay. Could you do that if you were asked to</p> <p>2 do that?</p> <p>3 A It's been three years. Most of that stuff</p> <p>4 has been thrown away or discarded.</p> <p>5 Q Do you have any idea how much all of those</p> <p>6 items are worth?</p> <p>7 A No.</p> <p>8 Q Okay. Other than the -- the out-of-pocket</p> <p>9 expenses that we've discussed, including those damages</p> <p>10 to the personal items that you just mentioned and the</p> <p>11 inconvenience that this has caused you, are you</p> <p>12 seeking -- what other damages are you seeking from</p> <p>13 NIBCO in this lawsuit?</p> <p>14 MR. SHAMBERG: Objection, calls for</p> <p>15 a legal conclusion.</p> <p>16 Q (By Ms. Stephens) You can answer.</p> <p>17 A That I'm requesting?</p> <p>18 Q Yes. That you are requesting.</p> <p>19 A Personally?</p> <p>20 Q Yes, for you personally, sir.</p> <p>21 A Is their expenses going to be taken care of?</p> <p>22 I don't know if it'd come out of pocket, see, that's --</p> <p>23 I'm confused in my head who gets what.</p> <p>24 Q Okay. Well, I'm just asking you, let's leave</p> <p>25 attorney's fees and things out of it.</p>
<p style="text-align: right;">Page 115</p> <p>1 problematic inconveniences worth to you, you don't</p> <p>2 know?</p> <p>3 A No.</p> <p>4 Q So this is my only chance to talk to you</p> <p>5 before the trial perhaps in this case, and you can't</p> <p>6 tell me today what that's worth to you?</p> <p>7 A I've never been in a situation like this. I</p> <p>8 don't know what number to come up with, I'm sorry.</p> <p>9 Q Okay. And regarding all out-of-pocket</p> <p>10 expenses that you're asking for, other than the amounts</p> <p>11 that we've just talked about in this deposition, can</p> <p>12 you think of any other out-of-pocket expenses that you</p> <p>13 have related to the plumbing leaks in your home?</p> <p>14 A I didn't -- excuse me. Let me clear my</p> <p>15 throat. I didn't seek damages to everything that got</p> <p>16 wet in my garage, because it was mostly personable,</p> <p>17 including the family Bible, three generations, that got</p> <p>18 waterlogged, soaked and ruined, numerous memorabilia,</p> <p>19 old clothing, things that were in my cardboard boxes</p> <p>20 that got saturated. I can't come up with a figure for</p> <p>21 those either.</p> <p>22 Q Okay. Have you ever tried to at least</p> <p>23 itemize what those items are?</p> <p>24 A I have not -- excuse me, I have not itemized</p> <p>25 them, no.</p>	<p style="text-align: right;">Page 117</p> <p>1 A Okay.</p> <p>2 Q What other damage to your home or that you</p> <p>3 have incurred personally are you seeking in this</p> <p>4 lawsuit, other than the ones we've already discussed?</p> <p>5 A That would be about it.</p> <p>6 Q Okay. Thank you.</p> <p>7 MR. SHAMBERG: Rachel, if I could</p> <p>8 just make one more statement on the record, is that all</p> <p>9 right?</p> <p>10 MS. STEPHENS: Okay.</p> <p>11 MR. SHAMBERG: I have been pretty</p> <p>12 quiet today, but you noticed that I had a few</p> <p>13 objections there --</p> <p>14 THE WITNESS: Uh-huh.</p> <p>15 MR. SHAMBERG: -- and I just want to</p> <p>16 let you know, I may object like that after Rachel asks</p> <p>17 the question, you can still go ahead and answer the</p> <p>18 question. I'm just making a record of my objection,</p> <p>19 unless I instruct you not to answer, you should go</p> <p>20 ahead and answer the question.</p> <p>21 THE WITNESS: Okay.</p> <p>22 MS. STEPHENS: Thank you for that</p> <p>23 clarification.</p> <p>24 Q (By Ms. Stephens) All right. Let's go back</p> <p>25 and discuss Exhibit 13 in more detail. You said that</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 118</p> <p>1 this Exhibit 13 refreshes your recollection regarding</p> <p>2 the leaks in your home; is that correct?</p> <p>3 A Yes.</p> <p>4 Q Okay. Now, what is the first date of a leak</p> <p>5 that you had in the plumbing at your home on Dusty</p> <p>6 Trail?</p> <p>7 A It was December 27, '13.</p> <p>8 Q And what area of the home did that leak occur</p> <p>9 in?</p> <p>10 A It's in the garage, under the third floor.</p> <p>11 And in each incident, I have listed how far it was from</p> <p>12 the hot water heater. It is approximately 40 feet from</p> <p>13 the hot water heater.</p> <p>14 Q Okay. You said it's underneath the third</p> <p>15 floor of the garage; is that correct?</p> <p>16 A That's accessible by walking in my garage and</p> <p>17 looking up two floors. My garage is two floors tall.</p> <p>18 All of the plumbing that goes through the garage and</p> <p>19 into my house goes through the garage, ceiling of the</p> <p>20 garage. It's all sprayed on insulation and wrapped.</p> <p>21 Q Okay. So the leak occurred in the garage</p> <p>22 area, but it was up above in -- a couple of stories?</p> <p>23 A About 20 feet high.</p> <p>24 Q Okay. And you said that occurred on</p> <p>25 December -- at least was observed on December 27th,</p>	<p style="text-align: right;">Page 120</p> <p>1 Q Under the third floor of the home. Okay.</p> <p>2 Thank you. Who observed this leak?</p> <p>3 A I did.</p> <p>4 Q Did your wife also observe it?</p> <p>5 A Yes.</p> <p>6 Q Okay. Anybody else?</p> <p>7 A The plumbers. The plumbers when they got</p> <p>8 there.</p> <p>9 Q Okay. And what plumber came out to look at</p> <p>10 this particular leak?</p> <p>11 A That would be the first plumber, which would</p> <p>12 be D D's.</p> <p>13 Q Okay. And again -- okay. So after you</p> <p>14 observed the leak on or about December 27th, 2013, what</p> <p>15 did you do?</p> <p>16 A I called my Home Shield.</p> <p>17 Q What did they tell you?</p> <p>18 A To find out if it was covered before I called</p> <p>19 the plumbers out and they said it was. They assigned a</p> <p>20 plumber to come out to do the repairs.</p> <p>21 Q Did that plumber -- did you call American</p> <p>22 Home Shield on the same day you saw the leak?</p> <p>23 A The day I discovered it, it might have been</p> <p>24 leaking --</p> <p>25 Q Sure.</p>
<p style="text-align: right;">Page 119</p> <p>1 2013; is that correct?</p> <p>2 A Yes.</p> <p>3 Q Okay. So in contrast to what it says in</p> <p>4 Paragraph 62 where it says, Starting in early 2013 you</p> <p>5 had approximately six weeks. The first leak actually</p> <p>6 occurred in December of 2013; is that correct?</p> <p>7 A Yes, I made an error there of just</p> <p>8 guessing.</p> <p>9 Q Okay. Now, how did you know it was at least</p> <p>10 40 feet from the water heater? Did you measure it at</p> <p>11 the time?</p> <p>12 A I'm -- I know pretty well, I'm within 5 feet</p> <p>13 of that estimate, I pretty well can tell what 10 feet</p> <p>14 is times 4, that's about how far it was from the hot</p> <p>15 water heater.</p> <p>16 Q Okay. Where is the hot water, is it in the</p> <p>17 garage?</p> <p>18 A On the garage level, inside the mud room, in</p> <p>19 a closet.</p> <p>20 Q Okay. And the leak occurred, again, up a</p> <p>21 couple of stories near the ceiling --</p> <p>22 A Yes.</p> <p>23 Q -- of the garage?</p> <p>24 Near the third floor of your home?</p> <p>25 A Under the third floor of the home.</p>	<p style="text-align: right;">Page 121</p> <p>1 A -- prior to that.</p> <p>2 Q So you believe you called the plumber on</p> <p>3 December 27th, 2013 -- or you called American Home</p> <p>4 Shield on that day?</p> <p>5 A That date, I'll have to research, because I</p> <p>6 came up with that date with whatever receipt I had or</p> <p>7 else the date that I called Home Shield. Like I said,</p> <p>8 it's been three years ago.</p> <p>9 Q Okay. And at least you believe that whatever</p> <p>10 plumber they assigned, which you believe is D D's came</p> <p>11 out the same day?</p> <p>12 A Yes -- no, they always called the plumber and</p> <p>13 they called me back and set up a time, which it was</p> <p>14 leaking at the time, so I believe he came within 48</p> <p>15 hours.</p> <p>16 Q Before the plumber came, who we believe was</p> <p>17 D D's plumbing, what did you do about the leak in your</p> <p>18 home?</p> <p>19 A I moved everything I could out of the way and</p> <p>20 stacked it from -- away from the leak and just let it</p> <p>21 leak.</p> <p>22 Q So you let the leak continue rather than</p> <p>23 perhaps turn off the water in your home?</p> <p>24 A It wasn't pouring out. It was leaking into</p> <p>25 the garage floor. I moved everything out of the</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 122</p> <p>1 garage. It was 20 feet high, I couldn't get up</p> <p>2 there.</p> <p>3 Q Sure. So it was dripping for lack of --</p> <p>4 A Dripping water. Dripping.</p> <p>5 Q It was dripping.</p> <p>6 A Yeah.</p> <p>7 Q Okay. It was dripping onto the floor in your</p> <p>8 garage; is that correct?</p> <p>9 A Yes.</p> <p>10 Q And so you moved anything away that could</p> <p>11 possibly be affected by the water that was coming in,</p> <p>12 is that accurate?</p> <p>13 A Yes, it was -- came home and discovered it.</p> <p>14 I did have to remove some items out of the water.</p> <p>15 Q Okay. Now, when D D's Plumbing came out</p> <p>16 within 48 hours, what did D D's Plumbing do to repair</p> <p>17 the leak?</p> <p>18 A Got a tall ladder and climbed to it to remove</p> <p>19 the insulation around the leak, turned the water off,</p> <p>20 of course. I didn't know how to do that. He turned it</p> <p>21 off, and then repaired the leak, replaced it with some</p> <p>22 PEX piping, not the same brand, but a PEX piping, and</p> <p>23 called Home Shield after that and said job was</p> <p>24 completed.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 124</p> <p>1 that?</p> <p>2 A I had to sign something, I don't recall what</p> <p>3 it was, but I didn't have to come up with anything.</p> <p>4 He -- he got reimbursed by them.</p> <p>5 Q Okay. Thank you. Did you typically pay the</p> <p>6 deductible in cash or check?</p> <p>7 A I don't recall, because we do it both ways.</p> <p>8 If I have cash on hand, I'll do it.</p> <p>9 Q Okay. Do you believe that American Home</p> <p>10 Shield would know how much you've paid into the</p> <p>11 deductible regarding these plumbing leaks if you asked</p> <p>12 them or is that something that you could determine</p> <p>13 yourself?</p> <p>14 A Yes, Home Shield would that have record, for</p> <p>15 sure.</p> <p>16 Q Now, you said he replaced the piping but not</p> <p>17 with the same brand. Do you know what brand he used?</p> <p>18 A No, ma'am, no.</p> <p>19 Q How do you know it was not the same brand?</p> <p>20 A It was a different color.</p> <p>21 Q Okay. What color was it -- or let's back up,</p> <p>22 what color was the pipe that was leaking?</p> <p>23 A It was the red.</p> <p>24 Q Okay.</p> <p>25 A I say red, it's kind of like a dark, dark</p>
<p style="text-align: right;">Page 123</p> <p>1 A I paid him the money and then he left.</p> <p>2 Q And when you said you paid him the money,</p> <p>3 you're refer to that 75 --</p> <p>4 A The deductible, yes.</p> <p>5 Q Just to keep the record clear, try to let me</p> <p>6 finish my question and I'll try to --</p> <p>7 A Oh --</p> <p>8 Q -- let you finish your answer.</p> <p>9 A -- I apologize.</p> <p>10 Q As we go throughout the day it gets harder to</p> <p>11 remember that.</p> <p>12 A Okay.</p> <p>13 Q So you paid him the \$75 deductible that we</p> <p>14 discussed previously, and otherwise, he was paid by</p> <p>15 American Home Shield for the work that he did that</p> <p>16 day?</p> <p>17 A Yes. I would like to make one more</p> <p>18 stipulation. I believe when we first got into Home</p> <p>19 Shield, the deductible was 75. I believe when we</p> <p>20 renewed, it dropped \$60. I'm not 100 percent sure of</p> <p>21 that.</p> <p>22 Q Okay. But if you were asked to, you could</p> <p>23 probably figure out -- were you given a receipt by</p> <p>24 D D's when they paid -- when you paid the deductible or</p> <p>25 anything or you just kind of had to keep track of</p>	<p style="text-align: right;">Page 125</p> <p>1 red.</p> <p>2 Q Okay. Is it more like an orange?</p> <p>3 A NIBCO, orangey red. It was NIBCO. It had</p> <p>4 NIBCO on the pipe.</p> <p>5 Q It was stamped with NIBCO and you thought it</p> <p>6 was kind of a dark red?</p> <p>7 A Dark red, that's what I would call it.</p> <p>8 Q And what color was the pipe that he replaced</p> <p>9 it with?</p> <p>10 A I don't recall.</p> <p>11 Q Okay. Was it blue?</p> <p>12 A He -- he was way up there and he did it and</p> <p>13 wrapped it all back up again. I really didn't watch</p> <p>14 the whole procedure.</p> <p>15 Q Okay. So other than the fact that it was a</p> <p>16 different color, you don't have any knowledge of what</p> <p>17 brand it was? You just assumed it was a different</p> <p>18 brand because it was a different color?</p> <p>19 A Yeah, he brought some different -- it wasn't</p> <p>20 NIBCO, it was -- he brought his own brand of PEX with</p> <p>21 him.</p> <p>22 Q Okay.</p> <p>23 A He would know that information.</p> <p>24 Q Did he replace any fittings when he did</p> <p>25 that?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 126</p> <p>1 A No, there was no fittings -- problems -- the</p> <p>2 leak was within 2 inches of the -- split within 2</p> <p>3 inches of a fitting.</p> <p>4 Q Okay. How do you know that it was within 2</p> <p>5 inches of a fitting?</p> <p>6 A He cut it off and showed it to me.</p> <p>7 Q Okay. So he cut the pipe off and showed it</p> <p>8 to you, but he didn't show you the fitting itself?</p> <p>9 A He didn't have to remove the fitting.</p> <p>10 Q Okay.</p> <p>11 A When he spliced it in there, he put a fitting</p> <p>12 on it, you know, at both ends. You cut this section of</p> <p>13 pipe out and he put a fitting on both ends, he spliced</p> <p>14 it in there. The original NIBCO fittings were still</p> <p>15 there, he didn't have to cut those off.</p> <p>16 Q Okay. Do you know what brand of fittings he</p> <p>17 used?</p> <p>18 A No.</p> <p>19 Q Do you know what kind of fitting he used,</p> <p>20 like brass or plastic?</p> <p>21 A No, I can't be for sure.</p> <p>22 Q Okay. What happened to the pipe that D D's</p> <p>23 Plumbing pulled out as a result of that first leak, did</p> <p>24 he give it to you or did he keep it?</p> <p>25 A I don't recall, but I believe since that was</p>	<p style="text-align: right;">Page 128</p> <p>1 know I had some damage.</p> <p>2 Q Okay. So you don't recall what the items</p> <p>3 were and you don't recall like how many items you had</p> <p>4 to throw out? Was it a few? Was it a couple of</p> <p>5 boxes?</p> <p>6 A After -- after getting all of the boxes out</p> <p>7 of the water and combining them back into two or three</p> <p>8 boxes, I must have discarded one box full of stuff.</p> <p>9 Q And you don't -- were those clothing items or</p> <p>10 were they other like knick-knacks or things?</p> <p>11 A I think knick-knacks and stuff like that.</p> <p>12 Some items were wood and they got -- the wood soaked up</p> <p>13 the water where it was no good anymore.</p> <p>14 Q Okay. The family Bible that you mentioned,</p> <p>15 was it damaged during that first --</p> <p>16 A That was the second leak.</p> <p>17 Q Okay. We will get to that. Thank you. If</p> <p>18 you had to estimate in dollars how much property was</p> <p>19 damaged as a result of that first leak, could you give</p> <p>20 me an estimate?</p> <p>21 A I can give you a guesstimate.</p> <p>22 Q Please do.</p> <p>23 A I would not know the exact amount.</p> <p>24 Q Okay. If you had to give me a guesstimate?</p> <p>25 A I would say with everything that was in the</p>
<p style="text-align: right;">Page 127</p> <p>1 the first time, he just -- I think he might have just</p> <p>2 thrown it away.</p> <p>3 Q Okay.</p> <p>4 A I didn't start saving the plumbing until</p> <p>5 after the other further leaks.</p> <p>6 Q Okay. Did that -- other than the, you know,</p> <p>7 the insulation that he might have had to remove and</p> <p>8 replace or anything else, did that first leak damage</p> <p>9 anything in your home?</p> <p>10 A Yes.</p> <p>11 Q And what was that?</p> <p>12 A Again, stuff I have on the floor of the</p> <p>13 garage. I had to get and pick all of it up and dry out</p> <p>14 and remove the boxes. I have a lot of cardboard boxes</p> <p>15 for storage in my garage. I leave it on the floor of</p> <p>16 the garage.</p> <p>17 Q Okay. Were those items damaged such that</p> <p>18 they couldn't be dried out and kept or did you have to</p> <p>19 throw any items out as a result of that first leak?</p> <p>20 A Several items had to be discarded because of</p> <p>21 the type of material they were. It was -- they were --</p> <p>22 when it got wet, they wasn't supposed to be wet, so it</p> <p>23 was no use to keep them.</p> <p>24 Q Okay.</p> <p>25 A I don't recall what those items were. I just</p>	<p style="text-align: right;">Page 129</p> <p>1 boxes, I would say \$100.</p> <p>2 Q After this first leak in your home, did</p> <p>3 Mr. -- did D D's Plumbing tell you what kind of pipe he</p> <p>4 had removed, what brand?</p> <p>5 A I don't recall that first time, no.</p> <p>6 Q Okay. After the first leak in your home on</p> <p>7 approximately December 27th, 2013, did you contact</p> <p>8 NIBCO regarding that leak?</p> <p>9 A No.</p> <p>10 Q Did you contact anyone other than your</p> <p>11 American Home Shield regarding that leak?</p> <p>12 A No.</p> <p>13 Q All right. Let's -- on Exhibit 13, let's go</p> <p>14 to the second date, which is January 16th, 2014. Do</p> <p>15 you see that?</p> <p>16 A Yes.</p> <p>17 Q Okay. Can you read to me the rest of that</p> <p>18 entry?</p> <p>19 A Northwest corner of garage above vents --</p> <p>20 vent in the garage. The word vent should -- the --</p> <p>21 where the air conditioning ducting is is where it</p> <p>22 should be ducting.</p> <p>23 Q Okay.</p> <p>24 A Where the ducting is, he had to crawl on top</p> <p>25 of the ducting to get to the leak.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 130</p> <p>1 Q Okay. And there's a notation above that, can 2 you read that notation above vent? 3 A That leak was approximately 15 feet from the 4 water heater. 5 Q Okay. And again, that's the same water 6 heater that's in the mud room of your home? 7 A Yes. 8 Q Okay. So this one was a little bit closer in 9 the garage? 10 A It was about 5 feet from the corner of the 11 garage and 10 feet down to the hot water heater, so 12 that to me, in my mind, is about 15 feet. 13 Q And at least this date, January 16th, 2014, 14 that's the day you observed that leak; is that 15 correct? 16 A It may have been a day before or a day after. 17 No, it wouldn't be a day after. It would be before 18 that date or that date. 19 Q Okay. Did anyone else observe that 20 particular leak? 21 A Yes. 22 Q Who? 23 A Wife and plumber. 24 Q Okay. Was the same plumber sent out to fix 25 that second leak?</p>	<p style="text-align: right;">Page 132</p> <p>1 remove everything out of there. 2 Q Okay. And did that dripping leak cause any 3 sort of damage to the materials in your garage? 4 A Yes. 5 Q Okay. Can you describe that damage? 6 A That was the time, I believe, where it got 7 into our boxes of our personal stored items, like 8 family Bible, knick-knacks, family history stuff, toys, 9 pictures, miscellaneous and personal items. 10 Q And did you have to discard some of those 11 items as a result of this second leak? 12 A Yes. 13 Q Okay. And which items did you have to 14 discard? 15 A Those would be some of the waterlogged 16 pictures, some of the wood frames from the pictures, 17 the Bible itself was ruined. 18 Q Okay. If you had to give me a monetary 19 amount for the damages for the items that you had to 20 discard, what guesstimate would you make for the 21 value? 22 A Again, you can't put an estimate on the value 23 to us, but the Bible was very, very fancy Bible and 24 some of the picture frames and stuff like that, I would 25 say about \$300 all together.</p>
<p style="text-align: right;">Page 131</p> <p>1 A Yes. 2 Q And that's D D's Plumbing you believe? 3 A Yes. 4 Q And was D D's Plumbing sent out again by 5 American Home Shield? 6 A Yes. 7 Q Okay. So after you observed the leak, this 8 second leak on approximately January 16th, 2014, what 9 did you do? 10 A I called Home Shield. 11 Q Okay. And as a result of that call to Home 12 Shield, is that when D D's Plumbing was sent out? 13 A Yes. 14 Q Some time thereafter? 15 A Yes. 16 Q Do you believe it was the same day or do you 17 believe it was a couple of days later? 18 A Unless it was a heavy leak, they sent him out 19 as soon as he's available, which is -- he always tells 20 you he'll be out there within 48 hours. It could have 21 been the next day. 22 Q Okay. Was that second leak, was that a heavy 23 leak or was that, again, like more of a drip? 24 A It was more of the same kind of a drip leak 25 into that corner of the garage. And again, I had to</p>	<p style="text-align: right;">Page 133</p> <p>1 Q Okay. I'm not asking you necessarily to -- 2 A It's hard to come up with the figures for 3 that. 4 Q Thank you. When D D's Plumbing came out to 5 fix the second leak, what did he do? 6 A He crawled up into -- above the vents 7 ductwork, found a leak, of course, had the water turned 8 off, cut the pipe and again spliced it. It was the 9 same exact kind of leak. It was just a couple of 10 inches away from a fitting, but it was a split in the 11 pipe, and that was the same problem when he came 12 before. 13 Q Okay. And you believe he just replaced the 14 pipe or did he also replace any of the fittings at the 15 time? 16 A When he cut the pipe off close to the 17 fitting, he had to replace that fitting, because it was 18 so close. 19 Q Okay. Do you know what brand of pipe he used 20 when he -- that he put in there? 21 A The same as the first time, which I don't 22 recall the brand. 23 Q Okay. Do you remember what color it was? 24 A No, it was out of sight. 25 Q Do you know what type of fitting he put in?</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 134</p> <p>1 A No.</p> <p>2 Q Do you know whether that fitting was brass or</p> <p>3 plastic?</p> <p>4 A No.</p> <p>5 Q Did you ask him that ever?</p> <p>6 A No.</p> <p>7 Q Okay. Regarding any of the repairs that</p> <p>8 D D's Plumbing did in your home, did you ask him what</p> <p>9 kind of materials he was putting back in?</p> <p>10 A He volunteered that information. I didn't</p> <p>11 have to ask him.</p> <p>12 Q Okay. And what did he tell you?</p> <p>13 A He was replacing them with his recommended</p> <p>14 brand of pipe and fittings.</p> <p>15 Q Did he tell you what recommended brand he was</p> <p>16 using?</p> <p>17 A No, ma'am, he would have that information.</p> <p>18 Q Okay. Was the process the same when D D's</p> <p>19 Plumbing came out, you paid the deductible on the</p> <p>20 spot?</p> <p>21 A Yes.</p> <p>22 Q Okay. And otherwise, whatever D D's Plumbing</p> <p>23 was paid for that repair, that was covered by your</p> <p>24 American Home Shield policy?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 Q Okay. When you say same place as above, do</p> <p>2 you mean the northwest corner of the garage?</p> <p>3 A Yes.</p> <p>4 Q Okay. So when you say the same place, you're</p> <p>5 referring to the January 16th entry?</p> <p>6 A Yes.</p> <p>7 Q Okay. And you say several feet away, what do</p> <p>8 you mean by that?</p> <p>9 A It was right next to the wall before it goes</p> <p>10 down to the hot water heater.</p> <p>11 Q Okay. Was it in the same length of pipe as</p> <p>12 the previous leak or was it just in the same general</p> <p>13 area?</p> <p>14 A Same general area. Again, it was above the</p> <p>15 ductwork and I could not see up there.</p> <p>16 Q Okay. Was it coming out of a different</p> <p>17 fitting than the previous leak?</p> <p>18 A It was leaking out of the pipe, very close to</p> <p>19 the wall.</p> <p>20 Q Okay. Was this a vertical piece of pipe that</p> <p>21 was leaking in the ceiling?</p> <p>22 A No, all of the pipe up there in the garage is</p> <p>23 horizontal.</p> <p>24 Q Okay. So I'm trying to understand several</p> <p>25 feet away, you mean -- okay. So the leak in January --</p>
<p style="text-align: right;">Page 135</p> <p>1 Q After this second leak in your home occurred</p> <p>2 on approximately January 16th, 2014, did you contact</p> <p>3 NIBCO?</p> <p>4 A No, I believe I tried to call NIBCO after the</p> <p>5 third leak when he told me there was a pattern.</p> <p>6 Q Okay. We'll get to that in a second. I</p> <p>7 wanted to ask the question regarding the second leak.</p> <p>8 So your answer is no to my question?</p> <p>9 A No.</p> <p>10 Q At the time after that second leak, did you</p> <p>11 become aware that NIBCO was the manufacturer of the</p> <p>12 piping in your home?</p> <p>13 A I believe I saw the name -- he mentioned the</p> <p>14 name of the piping that was in my house.</p> <p>15 Q After the second?</p> <p>16 A After the second.</p> <p>17 Q Okay. But at least at that point you didn't</p> <p>18 call NIBCO?</p> <p>19 A No.</p> <p>20 Q Okay. All right. Let's go to, on Exhibit</p> <p>21 13, the third entry, which is dated February 3rd, 2014.</p> <p>22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q Can you read to me that entry?</p> <p>25 A Same place as above, several feet away.</p>	<p style="text-align: right;">Page 137</p> <p>1 A That should be clarified, several feet away</p> <p>2 from the previous time he was there.</p> <p>3 Q Okay.</p> <p>4 A So it could have been 12 feet, 10 feet from</p> <p>5 the hot water heater. It was --</p> <p>6 Q Were all of these leaks on the hot water side</p> <p>7 of your system?</p> <p>8 A Yes.</p> <p>9 Q All right. What did you do after -- who</p> <p>10 observed this February 3rd, 2014 leak?</p> <p>11 A I did.</p> <p>12 Q Did your wife?</p> <p>13 A Yes.</p> <p>14 Q Anybody else?</p> <p>15 A The plumber after they got there.</p> <p>16 Q Okay. And after you observed this third</p> <p>17 leak, what did you do?</p> <p>18 A Called Home Shield and they sent D D's</p> <p>19 Plumbing back out, they were contacted out, D D's, to</p> <p>20 see if he was available. And he came back out and he</p> <p>21 was familiar with my house and how to get up there, and</p> <p>22 so he did work again in a different location.</p> <p>23 Q Okay. And the same process happened again</p> <p>24 where you paid the deductible on the spot when he</p> <p>25 arrived?</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 138</p> <p>1 A Yes, it was too far between.</p> <p>2 Q Okay. And otherwise, the work that he did</p> <p>3 was paid for by American Home Shield; is that</p> <p>4 correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. What did D D's Plumbing do to fix this</p> <p>7 third leak?</p> <p>8 A The same, they had to splice in a piece of</p> <p>9 wire -- I'm sorry, the tubing and use his tubing, his</p> <p>10 fittings and his connectors. I do not recall what</p> <p>11 brands they were.</p> <p>12 Q Okay. You believe they were PEX again,</p> <p>13 though?</p> <p>14 A It was a plastic type pipe like PEX.</p> <p>15 Q Okay. Going back to that second leak, the</p> <p>16 piping that was removed from your house, and I believe</p> <p>17 you also said there was a fitting that was removed; is</p> <p>18 that correct?</p> <p>19 A The split was too close to the fitting to</p> <p>20 splice.</p> <p>21 Q Right.</p> <p>22 A So he removed the fitting and then put the</p> <p>23 piece of pipe in place and crimp it back down again,</p> <p>24 used his crimp and at the other end of the splice where</p> <p>25 he cut it, he spliced it again with a -- I don't know</p>	<p style="text-align: right;">Page 140</p> <p>1 A No.</p> <p>2 Q Okay. Back to the third leak. When D D's</p> <p>3 Plumbing came out to fix that leak, what did he do with</p> <p>4 the pipe that was removed when he fixed that leak?</p> <p>5 A I -- I don't recall, but I do believe after</p> <p>6 the third time, I kept a piece of it.</p> <p>7 Q So you believe that --</p> <p>8 A Now, I think that's where he got that</p> <p>9 information on -- on Exhibit 11.</p> <p>10 Q Okay. So Exhibit 11 that we looked at</p> <p>11 previously is a bunch of handwritten notes and you</p> <p>12 believe that D D's Plumbing wrote the information on</p> <p>13 that piece of paper based on the pipe that he removed</p> <p>14 regarding the third leak, is that correct, that's the</p> <p>15 best you can recollect?</p> <p>16 A As best I recall, yes.</p> <p>17 Q Okay. And you believe you might have kept</p> <p>18 that piece of pipe that he removed after the third</p> <p>19 leak?</p> <p>20 A I believe I held onto that piece.</p> <p>21 Q Okay. Do you know what you did with that</p> <p>22 piece of particular pipe?</p> <p>23 A That might have been one that I mailed in. I</p> <p>24 kept and mailed in.</p> <p>25 Q Did you write any notations on that or</p>
<p style="text-align: right;">Page 139</p> <p>1 what a splice is, but where they connect it to the</p> <p>2 other piece of pipe.</p> <p>3 Q So he removed a previously installed piece of</p> <p>4 pipe and he also removed two fittings at that time you</p> <p>5 believe?</p> <p>6 A He removed one fitting, but when he cut the</p> <p>7 pipe out, the bad section, he replaced the fitting that</p> <p>8 holds one end of the pipe and at the other end, it's</p> <p>9 just a long piece of pipe, so when he cut it, he had to</p> <p>10 put another fitting where he cut the pipe.</p> <p>11 Q Okay. So he removed one fitting, replaced it</p> <p>12 and -- but he had to add in another fitting because of</p> <p>13 the splice?</p> <p>14 A Yes.</p> <p>15 Q Okay. What happened to the pipe and the</p> <p>16 fitting that were removed during that -- after that</p> <p>17 second leak?</p> <p>18 A I don't recall if we kept a piece of it at</p> <p>19 that time or not. I know after that time he started</p> <p>20 seeing -- he said, well, this is the same thing that</p> <p>21 happened when I was here last time, that's what I</p> <p>22 recall him saying.</p> <p>23 Q Okay. So at least you don't recall what</p> <p>24 happened to the pipe and fitting that were removed</p> <p>25 after that second one?</p>	<p style="text-align: right;">Page 141</p> <p>1 indicate anywhere where that piece of pipe came from in</p> <p>2 your house?</p> <p>3 A I don't recall.</p> <p>4 Q Would we have any way of knowing if we looked</p> <p>5 at a piece of pipe from your house that had been</p> <p>6 removed whether that came from that area or somewhere</p> <p>7 else?</p> <p>8 A I don't recall. I don't know --</p> <p>9 Q Okay.</p> <p>10 A -- without seeing it.</p> <p>11 Q So you don't know the location -- if you kept</p> <p>12 that pipe that was removed after that third leak, you</p> <p>13 couldn't tell me today where that pipe is?</p> <p>14 A No.</p> <p>15 Q Okay. After the third leak on approximately</p> <p>16 February 3rd, 2014, did you contact NIBCO?</p> <p>17 A Yes.</p> <p>18 Q Okay. How did you contact -- how did you</p> <p>19 know to contact NIBCO?</p> <p>20 A From the information he gave me on Exhibit</p> <p>21 11.</p> <p>22 Q So based on the information that D D's</p> <p>23 Plumbing gave you that's reflected on Exhibit 11, you</p> <p>24 contacted NIBCO?</p> <p>25 A Yes.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 142</p> <p>1 Q Okay. How did you know how to contact</p> <p>2 NIBCO?</p> <p>3 A Computer.</p> <p>4 Q So you --</p> <p>5 A Looked up the word NIBCO and found them. And</p> <p>6 I called the main number, I don't recall what that is,</p> <p>7 but told them I was having a problem with leaks and</p> <p>8 they sent me to their technicians, I guess, I don't</p> <p>9 recall exactly who I talked to.</p> <p>10 Q Do you remember the name of the person you</p> <p>11 talked to?</p> <p>12 A No.</p> <p>13 Q Do you remember --</p> <p>14 A It was a man, I can tell you that. I noticed</p> <p>15 on something that it gave a woman's name, but I don't</p> <p>16 recall talking to her.</p> <p>17 Q Okay.</p> <p>18 A Unless she was the one who answered the phone</p> <p>19 and sent me to the technical department.</p> <p>20 Q And what -- when you talked to the person in</p> <p>21 the technical department, who you believe was a man,</p> <p>22 what did that man tell you?</p> <p>23 A He said I can send you a form and you can</p> <p>24 mail a piece of it back, we'll examine it and find out</p> <p>25 what went wrong, in that general conversation is what</p>	<p style="text-align: right;">Page 144</p> <p>1 but he was a technical service I talked to. I see his</p> <p>2 name on the front page.</p> <p>3 Q Let's look at the first page of Exhibit 14.</p> <p>4 A Okay.</p> <p>5 Q There's a from and a sent. It says, From:</p> <p>6 Brigham, Jarrod, and then it has a sent and it says,</p> <p>7 Date: Friday, February 7th, 2014. Do you see that on</p> <p>8 the second line from the top?</p> <p>9 A Oh, up here?</p> <p>10 Q Uh-huh.</p> <p>11 A Yes.</p> <p>12 Q It says, To: ptmac04@sbcglobal.net?</p> <p>13 A Okay.</p> <p>14 Q And I believe you previously testified that's</p> <p>15 your E-mail address, correct?</p> <p>16 A That's correct.</p> <p>17 Q Okay. And then subject is return</p> <p>18 authorization and there's an attachment. Do you see</p> <p>19 that?</p> <p>20 A Yes.</p> <p>21 Q And then in the body of the E-mail, it's --</p> <p>22 Jarrod writes, See attached. The sample needs to show</p> <p>23 the NIBCO name and have the date code as well as the</p> <p>24 fail point. Do you see that?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 143</p> <p>1 he said.</p> <p>2 Q Okay. And did he take information from</p> <p>3 you?</p> <p>4 A He got my mailing address and I think a phone</p> <p>5 number. Don't recall giving him my E-mail, though.</p> <p>6 Q Okay. As a result of that conversation, did</p> <p>7 anybody at NIBCO send you a form?</p> <p>8 A Yes.</p> <p>9 Q How did they send you that form?</p> <p>10 A I think it was mailed. I don't recall</p> <p>11 exactly how I got it.</p> <p>12 Q Could it have been E-mailed to you?</p> <p>13 A That is possible and then my wife downloaded</p> <p>14 it. I'm not real computer literate, so...</p> <p>15 THE WITNESS: Do we have it?</p> <p>16 (Exhibit No. 14 was marked.)</p> <p>17 Q (By Ms. Stephens) Do you recall the date</p> <p>18 that you called NIBCO?</p> <p>19 A Not without seeing the form there.</p> <p>20 Q Okay. I'm handing you what's been marked</p> <p>21 Exhibit 14. This is a two-page document that bears the</p> <p>22 Bates numbers NIBCO-Cole 0084760 and 84761. Please</p> <p>23 take a look at Exhibit 14 and let me know if you</p> <p>24 recognize either page?</p> <p>25 A I don't know if the man's name was Jarrod,</p>	<p style="text-align: right;">Page 145</p> <p>1 Q Do you recall receiving an E-mail like</p> <p>2 this?</p> <p>3 A I evidently did. I don't recall the date</p> <p>4 that I received it.</p> <p>5 Q Okay. And then there's, the next page that's</p> <p>6 produced, which is what I believe is a form and it</p> <p>7 says, Product return authorization. Do you see that?</p> <p>8 A Yes.</p> <p>9 Q And is there a name on there, I believe it</p> <p>10 says Mike McMahon in the upper left-hand corner?</p> <p>11 A Yes.</p> <p>12 Q Okay. And is that your address?</p> <p>13 A Yes.</p> <p>14 Q Okay. Do you believe that you provided your</p> <p>15 name and address to whoever you talked to at technical</p> <p>16 services at NIBCO?</p> <p>17 A Yes.</p> <p>18 Q Okay. And so they probably entered this</p> <p>19 information and then send you this form in this</p> <p>20 E-mail?</p> <p>21 A Yes.</p> <p>22 Q Do you recall seeing a form like this?</p> <p>23 A It was three years ago, I've -- I received a</p> <p>24 bunch of stuff, looked up a bunch of stuff. If I</p> <p>25 received this, then yes, I recall seeing it.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 146</p> <p>1 Q Okay. Do you know -- it says over here on</p> <p>2 the right-hand side, NIBCO sales rep: Kate Emery. Does</p> <p>3 that name mean anything to you?</p> <p>4 A No, that's what was confusing to me, because</p> <p>5 I don't remember -- I think this lady answered the</p> <p>6 phone.</p> <p>7 Q Okay.</p> <p>8 A But when I talked to somebody, it was a</p> <p>9 man.</p> <p>10 Q Okay. Now, the date of this E-mail on this</p> <p>11 form, they both have the date February 7th, 2014. Do</p> <p>12 you see that?</p> <p>13 A Yes.</p> <p>14 Q Do you believe that's the date that you</p> <p>15 called NIBCO?</p> <p>16 A It must be, because after researching online</p> <p>17 after the information I got from the plumber, after the</p> <p>18 third leak, I decided to call.</p> <p>19 Q Now, on this form, at least, there's --</p> <p>20 midway down the page, do you see it says, Item No.,</p> <p>21 Material, Description --</p> <p>22 A Yes.</p> <p>23 Q -- and that kind of thing?</p> <p>24 And it says -- at least there's some</p> <p>25 different numbers and letters and things and then it</p>	<p style="text-align: right;">Page 148</p> <p>1 A Yes.</p> <p>2 Q Okay. In response to receiving this E-mail</p> <p>3 from NIBCO and this form, reflected on Exhibit 14, did</p> <p>4 you do anything?</p> <p>5 A That's what I'm trying to rack my brain to</p> <p>6 remember. I do not -- I mailed in a sample, but I</p> <p>7 don't recall if I mailed it to them, because right</p> <p>8 after I hung up, I started doing research on NIBCO and</p> <p>9 saw some problems. And then I -- that's when I</p> <p>10 discovered the class action. I contacted them right</p> <p>11 after that, so that might have stopped me from going</p> <p>12 ahead and following through with this, because I wanted</p> <p>13 to know more information from what was going on behind</p> <p>14 the scenes. I didn't understand what was going on. So</p> <p>15 if I mailed -- I do not recall mailing a piece back to</p> <p>16 them.</p> <p>17 Q Okay. So you don't believe that you ever</p> <p>18 mailed a piece of pipe back to NIBCO?</p> <p>19 A I don't remember exactly, no. They should</p> <p>20 have a record if I mailed it back to them. That's --</p> <p>21 Q I'm asking you what you recall, sir.</p> <p>22 A I'm not sure.</p> <p>23 Q I'm asking what you recall.</p> <p>24 A I do not recall exactly mailing it back to</p> <p>25 them.</p>
<p style="text-align: right;">Page 147</p> <p>1 said, Coiled red tube. Do you see that?</p> <p>2 A Yes.</p> <p>3 Q Did you tell the person that you talked to</p> <p>4 the color of the tube that you believe you had?</p> <p>5 A No, I don't recall. I'm sure I told them --</p> <p>6 I give them this information that I read off his</p> <p>7 notes.</p> <p>8 Q So you're referring to Exhibit 11 --</p> <p>9 A Yes.</p> <p>10 Q -- those notes from D D's Plumbing -- hold on</p> <p>11 one second. Let me ask my question.</p> <p>12 You believe you gave the person at</p> <p>13 NIBCO some of the information from Exhibit 11 about --</p> <p>14 to tell them what kind of product that you had?</p> <p>15 A I must have.</p> <p>16 Q Okay.</p> <p>17 A I don't recall exactly.</p> <p>18 Q Okay. I'm going to ask one more time, do you</p> <p>19 recall receiving this E-mail and this form from NIBCO</p> <p>20 on approximately February 7th, 2014?</p> <p>21 A That certain date and time?</p> <p>22 Q I said approximately.</p> <p>23 A Approximately. I will go with approximately,</p> <p>24 yes.</p> <p>25 Q So you recall receiving this from NIBCO?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q What do you mean exactly?</p> <p>2 A I recall mailing -- this is three years ago.</p> <p>3 I recall sending a piece of pipe to a company for</p> <p>4 research and I don't know if it was them or them. I</p> <p>5 don't recall who I sent it to.</p> <p>6 Q And by them or them, you don't know what --</p> <p>7 you're indicating whether it was NIBCO or whether it</p> <p>8 was your own attorneys, is that what you're saying?</p> <p>9 A Right. I don't remember if I sent a piece</p> <p>10 back to this company or if I waited and saved the piece</p> <p>11 to send to the lawyers.</p> <p>12 Q When you started researching NIBCO, did you</p> <p>13 come across the NIBCO warranty at any time?</p> <p>14 A No, I was just looking at -- I just typed in</p> <p>15 NIBCO problems and then I saw some stuff come up and</p> <p>16 that's when I discovered them. I didn't go into</p> <p>17 debt -- depth.</p> <p>18 Q Okay. When you say -- again, when you say</p> <p>19 them, you're referring to --</p> <p>20 A The lawyers.</p> <p>21 Q -- the attorneys?</p> <p>22 A The attorneys, yes.</p> <p>23 Q Have you ever seen a copy of the NIBCO</p> <p>24 warranty?</p> <p>25 A Never recall seeing it.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 150</p> <p>1 Q So you don't know one way or another whether</p> <p>2 you've complied with the terms of that warranty?</p> <p>3 A No.</p> <p>4 Q And as far as you know, the only contact</p> <p>5 you've ever had with NIBCO, is this phone call that you</p> <p>6 made and this E-mail that you got back?</p> <p>7 A Yes.</p> <p>8 Q Okay. And so as far as you know, until you</p> <p>9 filed this lawsuit as part of this class action, that's</p> <p>10 the only contact you've had with NIBCO regarding the</p> <p>11 leaks in your home?</p> <p>12 A Yes, just that one phone call.</p> <p>13 Q When you had this phone call with the person</p> <p>14 at NIBCO, who you believe was a man, what did you tell</p> <p>15 that person about the leaks in your home?</p> <p>16 A Exactly what the plumber had told me, it's</p> <p>17 three leaks, splits in the pipe on the hot water side</p> <p>18 close to the fittings. And I said, is this a problem</p> <p>19 y'all are having, and obviously I had to ask that</p> <p>20 because that's the main reason I called. He didn't</p> <p>21 admit to it, he just said, send a piece and we'll</p> <p>22 examine it. That's all I can recall.</p> <p>23 Q Did you request anything from NIBCO during</p> <p>24 that phone call?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q (By Ms. Stephens) You can answer. Please</p> <p>2 answer.</p> <p>3 A Okay. Would it surprise you if my decision</p> <p>4 was not to, then I would say it wouldn't surprise me</p> <p>5 because at that time my -- I was confused about who was</p> <p>6 going to pay me back for the problems I was having, so</p> <p>7 I was concerned that I was wanting to contact either</p> <p>8 NIBCO or when I discovered there was problems with</p> <p>9 NIBCO I really -- how do I word this? I didn't really</p> <p>10 trust that I would get the correct response from them</p> <p>11 when I discovered there was a problem with the</p> <p>12 company.</p> <p>13 Q So rather than send the pipe to NIBCO for an</p> <p>14 evaluation, you instead contacted an attorney; is that</p> <p>15 correct?</p> <p>16 A Yes, to find out what was going on. They</p> <p>17 know more about it.</p> <p>18 Q Please just answer my question. Yes or no --</p> <p>19 A Oh, I'm sorry.</p> <p>20 Q -- that's what you did?</p> <p>21 A Yes.</p> <p>22 Q And as far as, at least you remember, that's</p> <p>23 the last NIBCO ever heard from you personally,</p> <p>24 Mr. McMahon; is that correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 151</p> <p>1 Q Did you ask them to fix the leaks in your</p> <p>2 home at that time?</p> <p>3 A No.</p> <p>4 Q So you just asked --</p> <p>5 A It had already been fixed. I don't</p> <p>6 understand the question.</p> <p>7 Q Okay. Well, did you ask them to pay for</p> <p>8 it?</p> <p>9 A I was hoping that they would, you know, if</p> <p>10 they had problem, that I could be reimbursed for the</p> <p>11 problems that I was having. That's the reason I</p> <p>12 contacted them.</p> <p>13 Q Okay. But after this -- you received this</p> <p>14 form back from them and they asked you to send the pipe</p> <p>15 to them, you never did that, did you?</p> <p>16 A They would be ones -- if they got a piece</p> <p>17 back from me, then I could say yes, I did send them a</p> <p>18 piece. I don't recall.</p> <p>19 Q Okay. Would it surprise me [sic] that you</p> <p>20 never -- you, Mr. McMahon, never sent NIBCO a piece of</p> <p>21 pipe from your home?</p> <p>22 MR. SHAMBERG: Object to form.</p> <p>23 Q (By Ms. Stephens) Would it surprise me if I</p> <p>24 told you that?</p> <p>25 MR. SHAMBERG: Object to form.</p>	<p style="text-align: right;">Page 153</p> <p>1 Q You can put Exhibit 14 to the side. As a</p> <p>2 result of the third leak which occurred on</p> <p>3 approximately February 3rd, 2014, were there any items</p> <p>4 in your home that were damaged?</p> <p>5 A At this time I had -- I was still going</p> <p>6 through boxes that were damaged, so I would say no.</p> <p>7 Q Okay.</p> <p>8 A I didn't leave anything on the floor after</p> <p>9 that.</p> <p>10 Q So as far as you recall, any items that were</p> <p>11 damaged to that date were as a result of either the</p> <p>12 first or second leak; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. When was the next time you had -- you</p> <p>15 observed a leak in the plumbing in your home?</p> <p>16 A January -- February -- no, March 18th,</p> <p>17 2014.</p> <p>18 Q Okay.</p> <p>19 A And that was north side under the third floor</p> <p>20 about 30 feet from the water heater.</p> <p>21 Q Okay. So similar to the first leak, this</p> <p>22 was, again, up near the third floor underneath the</p> <p>23 third floor, but it was in your garage still; is that</p> <p>24 correct?</p> <p>25 A Yes.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 154</p> <p>1 Q As a result of -- who observed that leak on</p> <p>2 approximately March 18th, 2014?</p> <p>3 A I did.</p> <p>4 Q Did your wife also see it?</p> <p>5 A Yes.</p> <p>6 Q Who else?</p> <p>7 A The plumber.</p> <p>8 Q Okay. And who was the plumber in that</p> <p>9 particular instance?</p> <p>10 A That, I don't recall. That was -- D D's</p> <p>11 didn't come out after that. They contracted a</p> <p>12 different company.</p> <p>13 Q Okay. I'm going to direct you to Exhibit 3,</p> <p>14 which are those interrogatory responses? No, no.</p> <p>15 Right here.</p> <p>16 A Right here?</p> <p>17 Q There you go.</p> <p>18 A Okay.</p> <p>19 Q If you will please look at Page 7 and there's</p> <p>20 an answer that was given in response to No. 13. Do you</p> <p>21 see that answer, there's a reference to Mrs. Lou</p> <p>22 McMahon?</p> <p>23 A Yes.</p> <p>24 Q Is that your wife?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 156</p> <p>1 48-hour time period that they tell me they'll try to do</p> <p>2 all the time, which was in -- within two days. And it</p> <p>3 was a leak again on the floor of the garage, which</p> <p>4 wasn't doing much harm.</p> <p>5 Q Okay. Similar to the previous leaks, would</p> <p>6 you describe this leak as a drip again?</p> <p>7 A Yes.</p> <p>8 Q Okay. And when the plumber came out to fix</p> <p>9 this fourth leak, which -- and again, you believe that</p> <p>10 was West Town Plumbing, is that correct, based on --</p> <p>11 A Yes.</p> <p>12 Q -- Exhibit 3?</p> <p>13 A Based on Exhibit 3, yeah.</p> <p>14 Q What did West Town Plumbing do to fix leak</p> <p>15 No. 4?</p> <p>16 A They did the same thing. They spliced out</p> <p>17 the bad part and put a new piece of plumbing in place</p> <p>18 and then clamped it on both ends.</p> <p>19 Q Okay. Did you have any discussion with the</p> <p>20 plumber from West Town Plumbing about that leak and</p> <p>21 what they thought was causing it?</p> <p>22 A I don't recall them volunteering any</p> <p>23 information other than they repaired the leak.</p> <p>24 Q Okay. And the same process that occurred</p> <p>25 with the previous leaks happened, they came out, you</p>
<p style="text-align: right;">Page 155</p> <p>1 Q Okay. And after your wife's name, it listed</p> <p>2 D D's Plumbing, West Town Plumbing and Shanks Plumbing,</p> <p>3 LLC?</p> <p>4 A Yes.</p> <p>5 Q Does reading that -- those names on Exhibit 3</p> <p>6 refresh your recollection about the name of the plumber</p> <p>7 who came out and helped you with the fourth leak?</p> <p>8 A Yes, that would have to be West Town</p> <p>9 Plumbing.</p> <p>10 Q Okay. After the third leak -- or sorry,</p> <p>11 excuse me, the fourth leak occurred in your home, what</p> <p>12 did you do?</p> <p>13 A I called Home Shield and they dispatched a</p> <p>14 different plumbing. I didn't know who was going to</p> <p>15 show up.</p> <p>16 Q Okay. Did that -- did that plumber come out</p> <p>17 the same day or was it a couple of days later as they</p> <p>18 were available?</p> <p>19 A That's not the one that was starting to leak</p> <p>20 real bad. This was -- let me see here.</p> <p>21 Q Please speak up for the court reporter.</p> <p>22 A Oh, I'm sorry. I'm thinking in my head, I</p> <p>23 don't recall how many days or hours from the time I</p> <p>24 called Home Shield to the time the plumber showed up.</p> <p>25 I can't recall. I know they came out within the</p>	<p style="text-align: right;">Page 157</p> <p>1 paid the deductible either by cash or check and then</p> <p>2 they proceeded to work on the plumbing; is that</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q Okay. And however much they were paid beyond</p> <p>6 that was paid by your American Home Shield policy?</p> <p>7 A Yes.</p> <p>8 Q And you mentioned, I think previously in an</p> <p>9 answer, that that fourth leak again did not cause much</p> <p>10 property damage, because you had moved things around in</p> <p>11 your garage already?</p> <p>12 A Yes.</p> <p>13 Q Okay. As a result of that fourth leak in</p> <p>14 your home on approximately March 18th, 2014, did you</p> <p>15 contact NIBCO?</p> <p>16 A No.</p> <p>17 Q Okay. Other than having -- contacting</p> <p>18 American Home Shield and then having a plumber come out</p> <p>19 to fix that leak, did you do anything else?</p> <p>20 A No.</p> <p>21 Q At that point were you already in contact</p> <p>22 with an attorney?</p> <p>23 A Yes.</p> <p>24 Q And you believe that that attorney was Joe,</p> <p>25 it might have been Joe Sauder?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 158</p> <p>1 A Might have been, yes.</p> <p>2 Q Let's jump to the fifth leak that's listed</p> <p>3 here on approximately March 30th, 2014. Can you then</p> <p>4 read that entry to me, please?</p> <p>5 A 3/30/14?</p> <p>6 Q Yes.</p> <p>7 A Close to same place as above, arrow pointing</p> <p>8 up, approximately 30 feet from water heater.</p> <p>9 Q Okay. Was that in the same line as the</p> <p>10 fourth leak or just the same general area?</p> <p>11 A The same general area. I don't know if it is</p> <p>12 the same line or not.</p> <p>13 Q So -- and again, this leak was up under the</p> <p>14 third floor up in the garage in a line up there; is</p> <p>15 that correct?</p> <p>16 A Yes.</p> <p>17 Q Would you again describe that leak as a</p> <p>18 drip?</p> <p>19 A Yes.</p> <p>20 Q Okay. And was that dripping down to the</p> <p>21 floor of the garage again?</p> <p>22 A Yes.</p> <p>23 Q Okay. As a result -- who observed this fifth</p> <p>24 leak on March 30th?</p> <p>25 A Myself, my wife and the plumber.</p>	<p style="text-align: right;">Page 160</p> <p>1 plumbing company uses. I don't know what the product</p> <p>2 name was.</p> <p>3 Q Okay. What happened to the pipe that he</p> <p>4 removed when he fixed that leak?</p> <p>5 A Again, I don't remember if that's a piece</p> <p>6 that I saved or not.</p> <p>7 Q And would you be able to identify that</p> <p>8 piece?</p> <p>9 A I remember saving at least three pieces.</p> <p>10 Q What about the fourth leak? I'm not sure I</p> <p>11 asked that question. When the pipe was removed as part</p> <p>12 of the fourth leak, did you keep that pipe?</p> <p>13 A I recall keeping at least three pieces of the</p> <p>14 damaged pipe.</p> <p>15 Q Okay.</p> <p>16 A In most cases, plumbers throw it away.</p> <p>17 Q What damage, if any, did the fifth leak cause</p> <p>18 to your home or the items?</p> <p>19 A It -- it waterlogged the -- it dripped onto</p> <p>20 my -- I have two central air conditioning systems on</p> <p>21 that floor up against a wall. There's wood around them</p> <p>22 and wood underneath them. And it completely saturated</p> <p>23 all of the wood onto the floor, where they had to</p> <p>24 remove the wood underneath the hot water heaters to let</p> <p>25 the water evaporate. It was -- it was a pretty heavy</p>
<p style="text-align: right;">Page 159</p> <p>1 Q Okay. And as a result of observing that</p> <p>2 leak, what did you do?</p> <p>3 A I called American Home Shield.</p> <p>4 Q And did they send out West Town Plumbing</p> <p>5 again?</p> <p>6 A They sent out the same plumbers, so it must</p> <p>7 have been West Town Plumbing.</p> <p>8 Q And the same process occurred, you paid the</p> <p>9 deductible to the plumber, he did the work and he was</p> <p>10 reimbursed by American Home Shield?</p> <p>11 A Yes.</p> <p>12 Q Okay. While the plumber was out fixing that</p> <p>13 fifth leak, did you discuss that particular leak and</p> <p>14 what might have been causing it?</p> <p>15 A He noticed a split in the pipe, whether --</p> <p>16 all the same, with an inch or two of the fitting.</p> <p>17 Q Okay. What, if you know, did the plumber do</p> <p>18 to fix that fifth leak?</p> <p>19 A He spliced in another piece --</p> <p>20 Q Okay. Do you know --</p> <p>21 A -- with his product. I'm sorry, go ahead.</p> <p>22 Q Okay. I think I interrupted you. You</p> <p>23 believe he used a different product other than NIBCO</p> <p>24 PEX?</p> <p>25 A Yes, he used his own product, whatever that</p>	<p style="text-align: right;">Page 161</p> <p>1 leak at that time.</p> <p>2 Q Okay. As part of fixing the damage as a</p> <p>3 result of that fifth leak, is that when you had the</p> <p>4 restoration service come out with the fans and things</p> <p>5 like that or did that happen later?</p> <p>6 A Later.</p> <p>7 Q Okay. So other than the damage to the wood</p> <p>8 around that AC unit, was there damage to any other</p> <p>9 property -- part of your property or personal items in</p> <p>10 your garage?</p> <p>11 A The -- they soaked up into the -- I think,</p> <p>12 the terminology is Sheetrock --</p> <p>13 Q Okay.</p> <p>14 A -- inside the garage. It soaked up into the</p> <p>15 bottoms of those.</p> <p>16 Q Was that damage that was caused by that fifth</p> <p>17 leak fixed as part of some of the remodeling that was</p> <p>18 done after the last leak?</p> <p>19 A No, I had some fans that I put down there</p> <p>20 after I soaked up the water myself. And after the</p> <p>21 repair was done, then I put fans to dry everything out</p> <p>22 and I did not replace anything.</p> <p>23 Q So the Sheetrock that was affected by that</p> <p>24 fifth leak was not replaced or fixed?</p> <p>25 A No.</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 162</p> <p>1 Q Okay. After the fifth leak occurred on</p> <p>2 approximately March 30th of 2014, did you contact</p> <p>3 NIBCO?</p> <p>4 A No.</p> <p>5 Q Can you read the final entry on here, which</p> <p>6 is dated March 31st, 2014?</p> <p>7 A Behind the wall above hot water heater,</p> <p>8 leaking from the pipe from the third floor.</p> <p>9 Q And there's a note?</p> <p>10 A This one is what damaged my house.</p> <p>11 Q Okay. I believe the note says, This one did</p> <p>12 a lot of house damage?</p> <p>13 A Did a lot of house damage.</p> <p>14 Q Okay. And there's an arrow pointing up?</p> <p>15 A To that date.</p> <p>16 Q That date. Okay. Now, this is the sixth</p> <p>17 leak as we will describe it?</p> <p>18 A Yes.</p> <p>19 Q And who observed this sixth leak?</p> <p>20 A Unfortunately, we did after we were gone for</p> <p>21 a few days.</p> <p>22 Q Okay. Well, this is dated March 31st, 2014</p> <p>23 and the previous one is dated March 30th, 2014?</p> <p>24 A Right.</p> <p>25 Q That's the next day.</p>	<p style="text-align: right;">Page 164</p> <p>1 separately --</p> <p>2 A Oh, I apologize. Yes, the 14th there was a</p> <p>3 leak he found and he repaired it.</p> <p>4 Q What do you mean the 14th?</p> <p>5 A I'm sorry, the 3/30, year '14, yeah, 2014.</p> <p>6 Q So the fifth leak, what we're calling the</p> <p>7 fifth leak, that was repaired before the sixth leak was</p> <p>8 discovered?</p> <p>9 A Yes.</p> <p>10 Q Okay. Although, they're dated one day</p> <p>11 apart?</p> <p>12 A Right.</p> <p>13 Q So you think maybe he came out the same day</p> <p>14 on March 30th?</p> <p>15 A I believe he came out pretty soon, because it</p> <p>16 was leaking into the air conditioning system, so they</p> <p>17 came out quickly. However, they -- what they repaired,</p> <p>18 there was -- I don't know. I'm not the plumber, but</p> <p>19 what they repaired was a leak at the time. But there</p> <p>20 might have been a leak going on inside the wall that we</p> <p>21 did not know about until the next day.</p> <p>22 Q Okay. And that's the sixth leak you're</p> <p>23 referring to?</p> <p>24 A That's the sixth leak when they came back out</p> <p>25 the next day.</p>
<p style="text-align: right;">Page 163</p> <p>1 A Yeah, they came out -- the leak on the 30th</p> <p>2 is when we came home to find the water leaking damage</p> <p>3 to the air conditioning systems, to wood and the stuff</p> <p>4 like that. Unfortunately, we didn't know there was</p> <p>5 another leak at that time. And it had saturated -- we</p> <p>6 noticed it the next day, I'm sure. We were gone before</p> <p>7 that. We came back on the 29th or 30th, before that</p> <p>8 30th leak. Then we noticed the next day -- we live on</p> <p>9 the third floor. We did not see the second leak that</p> <p>10 was -- when I went downstairs, which I don't go very</p> <p>11 often, the ceiling was hanging down and all of the</p> <p>12 paint and the wall on the -- in the hallway going</p> <p>13 downstairs was leaking and bulging out, and the water</p> <p>14 was -- I walked in and it went squish, squish, so it</p> <p>15 was a major leak at that time.</p> <p>16 Q Okay. And I just want to make sure that I</p> <p>17 understand the timeline, so --</p> <p>18 A Yes.</p> <p>19 Q -- bear with me please.</p> <p>20 A I don't how long it was leaking there. I</p> <p>21 just discovered it the next morning, the next day.</p> <p>22 Q Between the fifth and sixth leak being</p> <p>23 discovered, did a plumber come out and do a repair?</p> <p>24 A No.</p> <p>25 Q So those two leaks although they're dated</p>	<p style="text-align: right;">Page 165</p> <p>1 Q Now, as a result of that sixth leak, you</p> <p>2 believe West Town came out the same day?</p> <p>3 A I believe this was when we got to Shanks.</p> <p>4 Q So you believe Shanks came out?</p> <p>5 A I think Shanks came out the last time, the</p> <p>6 last two times or the last time. They were so close</p> <p>7 together, I believe they would be the same one. I</p> <p>8 don't think they would change plumbers in between those</p> <p>9 two -- that one day. So I think Shanks, and again, I</p> <p>10 don't recall exactly. I do know they were involved in</p> <p>11 the repair, and that was, like you said, on this form</p> <p>12 right where it says Shanks Plumbing?</p> <p>13 Q Yes.</p> <p>14 A Okay.</p> <p>15 Q So Exhibit 3 you're referring to, you believe</p> <p>16 maybe West Town ended up only doing one repair and</p> <p>17 maybe Shanks did the last two?</p> <p>18 A Yes, I believe that's true.</p> <p>19 Q Okay. As a result of the March -- observing</p> <p>20 the March 31st, 2014 leak, which you've kind of</p> <p>21 described already with the water on the wall and things</p> <p>22 like that, what did you do?</p> <p>23 A I called Home Shield at that time.</p> <p>24 Q And then they ended up sending --</p> <p>25 A They dispatched the plumbers immediately.</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 166</p> <p>1 Q Okay. And did you pay a deductible for that</p> <p>2 last visit?</p> <p>3 A I don't believe so, because it was a</p> <p>4 follow-up.</p> <p>5 Q It was so close in time?</p> <p>6 A So close in time. I don't recall paying a</p> <p>7 deductible the second time. I think the way Home</p> <p>8 Shield does it, if you have a leak and the following</p> <p>9 day you have a leak, they send them back out there,</p> <p>10 because they feel they missed something, so they won't</p> <p>11 make me pay the deductible two times.</p> <p>12 Q Okay. You said you were out of town for</p> <p>13 several days before these last two leaks; is that</p> <p>14 correct?</p> <p>15 A Out of towns means we have -- we go visit our</p> <p>16 grandkids quite often. It might be a day, maybe two or</p> <p>17 three days we're gone and came back, I don't remember</p> <p>18 exactly how long it was.</p> <p>19 Q Okay. As a result of this sixth leak, did</p> <p>20 you ever contact NIBCO?</p> <p>21 A No.</p> <p>22 Q Okay. Again, at that time you had already at</p> <p>23 least been in contact with an attorney?</p> <p>24 A Yes.</p> <p>25 Q Okay. Do you know what happened to the</p>	<p style="text-align: right;">Page 168</p> <p>1 garage, one-fourth you walk into the stairwell, we call</p> <p>2 it the mud room, and off to it is a -- they -- the man</p> <p>3 who had it before made it an exercise room, I made it</p> <p>4 into a movie room and it's all carpet.</p> <p>5 Q Okay.</p> <p>6 A The rest of it was tile.</p> <p>7 Q And that lowest level, that's where most of</p> <p>8 the damage was, other than maybe some damage in the</p> <p>9 wall onto the --</p> <p>10 A To the ceiling underneath the third floor,</p> <p>11 the wall on the third floor and all of the carpet.</p> <p>12 Q Okay. Whenever you were observing -- you saw</p> <p>13 any of these leaks in your home, did you ever take any</p> <p>14 pictures or document them in any way?</p> <p>15 A I'm sure I probably took some pictures of the</p> <p>16 water that was sitting on the floor, but at the same</p> <p>17 time when the insurance company, USAA, sent a</p> <p>18 representative out, he had -- he took pictures of</p> <p>19 everything.</p> <p>20 Q Okay. If you took any pictures, would you</p> <p>21 still have copies of those pictures?</p> <p>22 A I would think I did have one, if it was an SD</p> <p>23 card, I may still have that.</p> <p>24 Q Okay. I would like you to look for those</p> <p>25 pictures, please.</p>
<p style="text-align: right;">Page 167</p> <p>1 pipe -- how was that sixth leak fixed?</p> <p>2 A It was inside the wall, they had -- they had</p> <p>3 to remove the ceiling below the second floor and they</p> <p>4 found the leak right there, it was leaking in there and</p> <p>5 down the wall all the way down to the hot water heater,</p> <p>6 which is directly below. And it -- it flooded my part</p> <p>7 of -- it actually seeped in and got some of my garage,</p> <p>8 but the main damage was the carpet in there all the way</p> <p>9 down into the, what I call the mud room, which is tile,</p> <p>10 it was very deep in there, and there's a movie room,</p> <p>11 exercise room, and it's a very large room, and was --</p> <p>12 all of that was wet. And the water, you could see</p> <p>13 water lines going up, saturated into the texture --</p> <p>14 the -- the -- I can't think of the terminology, it's</p> <p>15 Sheetrock.</p> <p>16 Q Okay. And the mud room is on that lowest</p> <p>17 level with the garage?</p> <p>18 A The bottom floor.</p> <p>19 Q The movie room and the exercise room, are</p> <p>20 they on the second floor?</p> <p>21 A No, it's right there next to it.</p> <p>22 Q So the lowest level is mostly garage, but</p> <p>23 there's also a movie room and an exercise room and a</p> <p>24 mud room?</p> <p>25 A Yeah, the bottom stairs is three-fourths</p>	<p style="text-align: right;">Page 169</p> <p>1 A Okay.</p> <p>2 MR. SHAMBERG: Rachel, I know you've</p> <p>3 asked for a couple of different things today.</p> <p>4 MS. STEPHENS: Uh-huh.</p> <p>5 MR. SHAMBERG: I would just ask if</p> <p>6 you could send those requests to me in writing for</p> <p>7 exactly what you want, that might help facilitate.</p> <p>8 MS. STEPHENS: That would be great.</p> <p>9 Thank you. Some of it I think we've cleared it up</p> <p>10 already.</p> <p>11 MR. SHAMBERG: Whatever you still</p> <p>12 need.</p> <p>13 MS. STEPHENS: Great. Thanks, Kyle.</p> <p>14 Q (By Ms. Stephens) What about any video, did</p> <p>15 you ever take any video of the leaks?</p> <p>16 A No.</p> <p>17 Q Now, as a result of this sixth leak, did you</p> <p>18 contact anyone else other than American Home Shield?</p> <p>19 A Yes.</p> <p>20 Q And who was that?</p> <p>21 A USAA, my homeowners.</p> <p>22 Q Okay. And previously as a result of these</p> <p>23 other leaks, did you ever contact your homeowners</p> <p>24 insurance?</p> <p>25 A Only to ask them if they would cover the</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 170</p> <p>1 pipes that are leaking. They said, no, only the damage</p> <p>2 after the pipes were leaking, which most of the time</p> <p>3 they were all water on the floor in the garage.</p> <p>4 Q Okay. So at that point you didn't think it</p> <p>5 was worth it to make a claim for that -- any damage</p> <p>6 otherwise?</p> <p>7 A No.</p> <p>8 Q Okay.</p> <p>9 A The deductible was \$3,800 and it wasn't that</p> <p>10 much --</p> <p>11 Q Sure.</p> <p>12 A -- deducted.</p> <p>13 Q So do you recall exactly what date you</p> <p>14 contacted your homeowners insurance, USAA, regarding</p> <p>15 the property damage?</p> <p>16 A On the -- after the damage to my house, it</p> <p>17 was -- it had to be immediately within a day or two,</p> <p>18 because I knew they would cover the damages, and so I</p> <p>19 had to get somebody immediately to see what they could</p> <p>20 do.</p> <p>21 Q Okay. Let's refer to Exhibits 4 and 5 that</p> <p>22 we looked at previously.</p> <p>23 A Okay.</p> <p>24 Q Exhibit 4 is like an E-mail printout, I</p> <p>25 believe. Do you see at the top of Exhibit 4, it</p>	<p style="text-align: right;">Page 172</p> <p>1 to come out and estimate the damages.</p> <p>2 Q Okay. And did you get a written appraisal</p> <p>3 back from that or what did you receive back?</p> <p>4 A No, it's -- I think it's one of these</p> <p>5 exhibits here.</p> <p>6 Q Is it Exhibit 5, that's on your right hand?</p> <p>7 A Yeah, AmeriClaim.</p> <p>8 Q So this is what you received from USAA as a</p> <p>9 result of that appraisal?</p> <p>10 A Yes.</p> <p>11 Q Okay. And they said this is what we'll pay</p> <p>12 you as a result of that damage?</p> <p>13 A Yes.</p> <p>14 Q So they didn't ask you to go out and get</p> <p>15 estimates at that time for what it was actually going</p> <p>16 to cost, they just told you this is what we'll pay?</p> <p>17 A They -- yeah, they don't get -- I don't get</p> <p>18 to pick. They sent this person out to do the</p> <p>19 appraisal.</p> <p>20 Q Okay. And then did they ask you to go out</p> <p>21 and get estimates to actually do the work or is that</p> <p>22 something you then did on your own?</p> <p>23 A I did that on my own.</p> <p>24 Q Okay. And that's how you ended up contacting</p> <p>25 Cunningham and Mitchell and Shanks?</p>
<p style="text-align: right;">Page 171</p> <p>1 appears to be sent to your E-mail address, tpmac04?</p> <p>2 A Yes.</p> <p>3 Q Okay. And it's sent to you by USAA. Do you</p> <p>4 see that?</p> <p>5 A Yes.</p> <p>6 Q And at least the body of this E-mail it says,</p> <p>7 Dear Michael McMahon, thank you for trusting USAA with</p> <p>8 your insurance needs?</p> <p>9 A Yes.</p> <p>10 Q So do you believe -- this is dated April 2nd,</p> <p>11 2014. Do you believe that that's the date on which you</p> <p>12 contacted USAA regarding the property damage?</p> <p>13 A It had to be very close to that date.</p> <p>14 Q And then to the extent you were communicating</p> <p>15 with USAA regarding your claims, was most of that over</p> <p>16 the phone or did you also E-mail about that?</p> <p>17 A I like to talk to people on the phone. I</p> <p>18 don't recall E-mailing them, unless they asked me to</p> <p>19 E-mail information.</p> <p>20 Q What -- after you contacted USAA, what did</p> <p>21 they do?</p> <p>22 A They contacted an appraiser. I explained to</p> <p>23 them the damages done to my house and they said, okay,</p> <p>24 we'll have the -- there was a claim number they came up</p> <p>25 with, I guess it may be on here, and sent an appraiser</p>	<p style="text-align: right;">Page 173</p> <p>1 A Yes.</p> <p>2 Q Okay. And you got those estimates for the</p> <p>3 plumbing fixing and the property damage fixes, right?</p> <p>4 A Yes, two separate.</p> <p>5 Q And you end up going with Cunningham to do</p> <p>6 the actual property repairs, is that correct, on</p> <p>7 Exhibit 6?</p> <p>8 A Yes.</p> <p>9 Q Okay. And you went with Shanks to do the</p> <p>10 replumbing; is that correct?</p> <p>11 A Yes.</p> <p>12 Q And is the replumbing, again, that was a</p> <p>13 decision that you made and you wanted your house to be</p> <p>14 replumbed; is that correct?</p> <p>15 A Yes.</p> <p>16 Q Okay. At any time did you ever contact NIBCO</p> <p>17 and say, I want you to pay to replumb my house?</p> <p>18 A No.</p> <p>19 Q At any time did you ever contact NIBCO and</p> <p>20 say, I want you to replace all of the plumbing and</p> <p>21 fittings in my home?</p> <p>22 A No.</p> <p>23 Q Did you ever contact NIBCO and say, I had to</p> <p>24 have my whole house replumbed and here's how much it</p> <p>25 cost?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 174</p> <p>1 A No, there was only one contact.</p> <p>2 Q Okay. And that was February 2014 phone</p> <p>3 call?</p> <p>4 A Yes.</p> <p>5 Q And then the E-mail they sent back to you; is</p> <p>6 that correct?</p> <p>7 A Yes.</p> <p>8 Q Okay.</p> <p>9 (Exhibit No. 15 was marked.)</p> <p>10 Q (By Ms. Stephens) I'm going to hand you what</p> <p>11 we'll mark Exhibit 15. This is a large packet of</p> <p>12 documents. It is Bates numbered NIBCO-Cole 00095183</p> <p>13 through 95212. And I'll represent to you, Mr. McMahon,</p> <p>14 that this has been produced by NIBCO to your attorneys</p> <p>15 in this lawsuit. If you want to flip through it, let</p> <p>16 me know and then let me know when you're ready to</p> <p>17 answer some questions.</p> <p>18 A Pictures of my house. Okay. Okay. On here</p> <p>19 where it has these checks that my wife --</p> <p>20 MR. SHAMBERG: Wait for her to ask a</p> <p>21 question.</p> <p>22 THE WITNESS: Okay. I'm sorry. I'm</p> <p>23 not supposed to volunteer.</p> <p>24 A Okay.</p> <p>25 Q (By Ms. Stephens) Okay. Have you ever seen</p>	<p style="text-align: right;">Page 176</p> <p>1 number?</p> <p>2 A Yes.</p> <p>3 Q Okay. And that number is 2014020706. Do you</p> <p>4 see that?</p> <p>5 A Yes.</p> <p>6 Q Okay. Does that appear to be at least in</p> <p>7 part the same number that is handwritten on Exhibit</p> <p>8 15?</p> <p>9 A Part of it, yes.</p> <p>10 Q Okay. Then the last few digits seem to be</p> <p>11 added on are different, but at least the first part?</p> <p>12 A Yes.</p> <p>13 Q Okay. Now, this appears to be a letter</p> <p>14 written to NIBCO from USAA. Do you see in the first</p> <p>15 full paragraph where it says -- the last sentence says,</p> <p>16 We have paid \$13,703.87 and are requesting</p> <p>17 reimbursement?</p> <p>18 A Yes.</p> <p>19 Q Do you believe that's how much you were paid</p> <p>20 by USAA related to the property damage at your home?</p> <p>21 A No.</p> <p>22 Q Okay. You believe it was more or less than</p> <p>23 that?</p> <p>24 A Less.</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 175</p> <p>1 any of the documents that are contained in Exhibit</p> <p>2 15?</p> <p>3 A Just some of the estimates.</p> <p>4 Q Okay. Well, let's start on the first page,</p> <p>5 keep your finger on the page that it is, because we'll</p> <p>6 talk about that one in a second.</p> <p>7 A Okay.</p> <p>8 Q On the first page it appears to something</p> <p>9 that was sent to NIBCO, but do you see your name</p> <p>10 referenced there, Mike -- Mr. Michael McMahon?</p> <p>11 A Yes.</p> <p>12 Q As our insured, okay. Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Okay. And this is dated September 17th,</p> <p>15 2014. Do you see that?</p> <p>16 A Oh, up here, yes.</p> <p>17 Q Okay. And at the top, do you see something</p> <p>18 handwritten at the top, it says, PER and then a bunch</p> <p>19 of numbers?</p> <p>20 A Yes.</p> <p>21 Q Okay. I would like you to pull up Exhibit</p> <p>22 14, if you could. This E-mail that was sent to you</p> <p>23 from NIBCO. Go to the second page, please. In the</p> <p>24 upper right-hand corner below where it says product</p> <p>25 return authorization, do you see where it says report</p>	<p style="text-align: right;">Page 177</p> <p>1 A Now, we're talking about my deductible,</p> <p>2 though, and all of the other expenses.</p> <p>3 Q Okay. Well, let's go to page -- see the</p> <p>4 numbers at the bottom of Exhibit 15, those are called</p> <p>5 Bates numbers, and go to 95192, it's about 10 pages in.</p> <p>6 A Okay.</p> <p>7 Q Do you see that and it's kind of like a</p> <p>8 shaded thing and it's got some entries and some numbers</p> <p>9 on that?</p> <p>10 A Yes.</p> <p>11 Q Do you see that?</p> <p>12 You see your deductible, it says</p> <p>13 less deductible \$3,800. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And you see net amount \$7,885.30?</p> <p>16 A Yes.</p> <p>17 Q And that appears to be the same amount --</p> <p>18 A On the --</p> <p>19 Q -- that's written on one of the exhibits</p> <p>20 we've looked at?</p> <p>21 A Exhibit 5, AmeriClaim.</p> <p>22 Q Okay. Now, do you see below that has an</p> <p>23 entry that appears to say, Water mit and it says</p> <p>24 \$1,064.40?</p> <p>25 A That has to be the people who dried it all</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 178</p> <p>1 out.</p> <p>2 Q Okay.</p> <p>3 A I don't know what --</p> <p>4 Q So does this particular document refresh your</p> <p>5 recollection about whether you might have been</p> <p>6 reimbursed for that work by USAA?</p> <p>7 A If I received a payment of that amount, yes,</p> <p>8 they must have reimbursed me.</p> <p>9 Q Okay. Let's go to the next page, there are</p> <p>10 some entries here, it says, Review payments. There are</p> <p>11 some dates, some payees and some amounts listed. Do</p> <p>12 you see that?</p> <p>13 A Yes.</p> <p>14 Q Do you see your name on there a couple of</p> <p>15 times as a payee?</p> <p>16 A Yes.</p> <p>17 Q Okay. At least there is an entry of July 24,</p> <p>18 2014, it appears that you may have received a printed</p> <p>19 check in the amount of \$954.17. Do you see that?</p> <p>20 A Yes, that's what I was going to ask.</p> <p>21 Q Does that -- do you recall receiving that</p> <p>22 amount from USAA?</p> <p>23 A If I did, I don't know what it was for.</p> <p>24 Q Okay. What about this April 22nd, 2014, it</p> <p>25 says \$8,949.70, do you recall receiving a check in that</p>	<p style="text-align: right;">Page 180</p> <p>1 I see how the last figure, the 8,000 came out to the</p> <p>2 previous page, I see how that worked.</p> <p>3 Q Okay. At least if you look at --</p> <p>4 A Yes.</p> <p>5 Q -- the next page in Exhibit 15, it appears to</p> <p>6 be that same invoice that we looked at from Fast Action</p> <p>7 Restoration for the water drying and things like</p> <p>8 that?</p> <p>9 A Okay. So that was -- I still don't see where</p> <p>10 that 1,064 check was -- oh, that's what --</p> <p>11 Q I think it was added into the property</p> <p>12 damage?</p> <p>13 A Oh, it was added into the third check.</p> <p>14 Q So let's look that next page, that Fast</p> <p>15 Action Restoration amount?</p> <p>16 A Okay.</p> <p>17 Q It's 1,064.40, I know it's hard to read, but</p> <p>18 I think that's what it says. And then the page after</p> <p>19 that says, \$7,885.30?</p> <p>20 A Uh-huh.</p> <p>21 Q If you'll allow me to do some quick math, let</p> <p>22 me see what that adds up to. Would you believe me that</p> <p>23 those two amounts add up to \$8,949.70?</p> <p>24 A If you say so, yes, I do.</p> <p>25 Q Okay. I'm going to represent to you that, at</p>
<p style="text-align: right;">Page 179</p> <p>1 amount from USAA?</p> <p>2 A If we did, my wife receive -- she does all of</p> <p>3 the banking.</p> <p>4 Q Okay. That was going to be my next question.</p> <p>5 When you received checks in the mail, who does the</p> <p>6 deposits?</p> <p>7 A My wife.</p> <p>8 Q Okay. So if you received checks in these</p> <p>9 amounts and they were deposited, she would be the one</p> <p>10 who knows whether she deposited them or not?</p> <p>11 A Yes.</p> <p>12 Q Where do you bank?</p> <p>13 A We bank at South -- Grand Bank of Grand</p> <p>14 Prairie, Grand Bank in Grand Prairie, Texas.</p> <p>15 Q And is that true today -- was that true back</p> <p>16 in 2014 as it is today?</p> <p>17 A Yes.</p> <p>18 Q Does NIBCO-Cole 00095193 refresh your</p> <p>19 recollection about how much you have been paid by USAA</p> <p>20 for the property damage in your home?</p> <p>21 A Yes, it does now.</p> <p>22 Q Okay. So you believe -- if this at least</p> <p>23 reflects this, you probably received those checks and</p> <p>24 they were probably deposited?</p> <p>25 A Yes, I just don't remember how it broke down.</p>	<p style="text-align: right;">Page 181</p> <p>1 least based on my grade school math skills, they do?</p> <p>2 A Okay.</p> <p>3 MR. SHAMBERG: Mine, too.</p> <p>4 Q (By Ms. Stephens) Okay. Does that, again,</p> <p>5 refresh your recollection about whether you probably</p> <p>6 were reimbursed for that water remediation?</p> <p>7 A Yes, I do remember I paid out of pocket and</p> <p>8 my wife got the check and then we were reimbursed.</p> <p>9 Q Okay. So since you were reimbursed for that</p> <p>10 amount out under your insurance, are you still seeking</p> <p>11 that amount from NIBCO in this lawsuit?</p> <p>12 A No.</p> <p>13 Q Let's flip to beginning the third page of</p> <p>14 Exhibit 15, I believe there are some photographs</p> <p>15 starting with NIBCO-Cole 00095185 --</p> <p>16 A Yes.</p> <p>17 Q -- up through 190. Do you see those?</p> <p>18 A Yes.</p> <p>19 Q Are those pictures taken in your home?</p> <p>20 A Yes.</p> <p>21 Q Okay. So the first picture, is that your</p> <p>22 kitchen?</p> <p>23 A Yes.</p> <p>24 Q The next, is that kind of like a living</p> <p>25 area?</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 182</p> <p>1 A Yes, the kitchen would be off to the right in 2 that picture. 3 Q Okay. And then this is a bathroom on the 4 next page? 5 A Yes. 6 Q Where is that bathroom located? 7 A Upstairs bathroom. 8 Q That's the third floor? 9 A On the third floor, on the west side of the 10 house. 11 Q Okay. And then the next picture, is that 12 that mud room you've been discussing? 13 A No, that's the laundry room, but also on the 14 third floor, top floor. 15 Q And then what's the next picture, if you 16 know? 17 A That's a picture of the garage after pulling 18 all of the wet carpet out. 19 Q Okay. Is the garage carpeted or where is 20 that carpet from? 21 A No, it's concrete. The carpet came from 22 the -- probably the hallway upstairs and the TV room. 23 Q Okay. The next picture appears to be, again, 24 some more carpet? 25 A Yes.</p>	<p style="text-align: right;">Page 184</p> <p>1 Q Do you know when they were purchased? 2 A No. 3 Q Do you know who they were installed by? 4 A No. 5 Q Do you know how the person who installed the 6 NIBCO PEX products in your home stored those items 7 before they were installed? 8 A No. 9 Q Did you have any input in the decision to 10 purchase NIBCO PEX products for your home? 11 A No. 12 Q Do you know who had input into that 13 decision? 14 A The builder. 15 Q Do you assume that or do you know that? 16 A Assume that. 17 Q Do you know when the NIBCO PEX products were 18 installed in your home? 19 A Approximate would be the end of '07. 20 Q And that's based on information provided to 21 you by Mr. Ward? 22 A Yes. 23 Q And he's not the original builder of the 24 home, is he? 25 A In.</p>
<p style="text-align: right;">Page 183</p> <p>1 Q Do you recall taking those photos or do you 2 believe they were taken by someone with USAA? 3 A I don't recall taking those pictures, but I 4 might have. I don't recall taking any other pictures, 5 so they must have taken them. 6 Q Okay. Would you look at Exhibit 2, it's the 7 complaint, please. Would you please look at 8 Paragraph -- it's on Page 43, Paragraph 213. I'm going 9 to read that paragraph for you. 10 A Okay. 11 Q The NIBCO PEX products were expected to, and 12 did, reach Mr. McMahon's home and the Medders' home 13 without substantial change in the conditions in which 14 they were designed, manufactured, assembled, 15 distributed, marketed and sold by NIBCO. Do you see 16 that? 17 A Yes. 18 Q Do you know the basis of that statement 19 regarding your home? Let's not talk about the Medders' 20 home? 21 A When the home was built, it was installed. 22 Q Okay. Do you know where the NIBCO PEX 23 products that were installed in your home were 24 purchased? 25 A No.</p>	<p style="text-align: right;">Page 185</p> <p>1 Q In fact, the home was built by someone else 2 for a different homeowner; is that correct? 3 A Yes, the number I gave you. 4 Q And we talked about that previously? 5 A Yes. 6 Q Okay. So the leaks in your home appear to 7 have started in December 2013; is that correct? 8 A Yes. 9 Q So you had lived there approximately a year 10 after you had bought the home? 11 A Yes. Well, I don't have the notes here, but 12 any -- I would have to look at those dates again, I 13 need that piece of paper. 14 Q There it is. So again, you lived in your 15 home about a year before you started having leaks; is 16 that correct? 17 A Yes. 18 Q If you had called NIBCO after that first leak 19 and NIBCO had told you that some of its pipe may 20 prematurely fail, would you have done anything 21 differently? 22 A Yes. 23 Q What would you have done differently? 24 A Find out if they're at fault and they're to 25 replace all of my pipe. If they had a problem with it,</p>



MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 186</p> <p>1 I need it replaced. I would have done that. I would</p> <p>2 have asked them to do that.</p> <p>3 Q What if NIBCO somehow contacted you and said,</p> <p>4 our NIBCO PEX pipe may prematurely fail, but let's</p> <p>5 assume that you never had any leaks in your home to</p> <p>6 that date, what would you have done?</p> <p>7 A Since I plan on living in that house forever,</p> <p>8 I would want them to replace it.</p> <p>9 Q Okay. So you would have asked NIBCO to</p> <p>10 replace the plumbing in your home before you had any</p> <p>11 leaks at all?</p> <p>12 A If they stated they had problems with it, I</p> <p>13 would think that they should replace it.</p> <p>14 Q But at least up to the point in which you had</p> <p>15 the first leak and I think maybe not until the third</p> <p>16 leak, you didn't know what kind of plumbing there was</p> <p>17 in your house, did you?</p> <p>18 A No.</p> <p>19 Q You didn't know the brand or who manufactured</p> <p>20 it, did you?</p> <p>21 A After the second leak, the plumber.</p> <p>22 Q Okay. So maybe after the second leak you</p> <p>23 knew?</p> <p>24 A Yes.</p> <p>25 Q Okay. And at least during the process in</p>	<p style="text-align: right;">Page 188</p> <p>1 MS. STEPHENS: Can you read it back,</p> <p>2 please?</p> <p>3 (Requested portion was read back.)</p> <p>4 MR. SHAMBERG: Same objection.</p> <p>5 A If they knew there was a problem with the</p> <p>6 plumbing, they should have informed the people who had</p> <p>7 purchased it.</p> <p>8 Q (By Ms. Stephens) So the answer is yes?</p> <p>9 A Yes.</p> <p>10 Q Where should NIBCO have provided that</p> <p>11 warning?</p> <p>12 A They would have no knowledge of the owners of</p> <p>13 their -- whoever -- wherever the plumbing -- wherever</p> <p>14 the piping was in their homes, if they don't know where</p> <p>15 it was installed, there is no way that I could have</p> <p>16 known about it.</p> <p>17 Q Okay.</p> <p>18 A Unless it was a worldwide, you know, recall</p> <p>19 that everybody knew about, that's the only way I would</p> <p>20 know.</p> <p>21 Q Okay. So you didn't know that NIBCO was</p> <p>22 installed in your home and NIBCO probably didn't either</p> <p>23 is what you're saying?</p> <p>24 A Yes.</p> <p>25 MS. STEPHENS: I'm going to take a</p>
<p style="text-align: right;">Page 187</p> <p>1 which you purchased the home on Dusty Trail, you didn't</p> <p>2 ask what kind of plumbing it had?</p> <p>3 MR. SHAMBERG: Objection, asked and</p> <p>4 answered.</p> <p>5 THE WITNESS: I can answer?</p> <p>6 MR. SHAMBERG: Yes.</p> <p>7 A Can you repeat that question, I'm sorry.</p> <p>8 MS. STEPHENS: Can you read it back,</p> <p>9 please?</p> <p>10 (Requested portion was read back.)</p> <p>11 A No.</p> <p>12 Q (By Ms. Stephens) Was that -- was the kind</p> <p>13 of plumbing that was in the home important to you in</p> <p>14 the plumbing -- in the purchasing decision?</p> <p>15 A I was thinking the house was only seven years</p> <p>16 old, so I wasn't foreseeing any problems with my</p> <p>17 plumbing.</p> <p>18 Q Okay. So the answer is no?</p> <p>19 A No, I guess.</p> <p>20 Q Do you believe NIBCO should have issued a</p> <p>21 warning regarding the PEX pipe that it sold to be</p> <p>22 installed in residential homes?</p> <p>23 MR. SHAMBERG: Objection, calls for</p> <p>24 a legal conclusion. Go ahead.</p> <p>25 A Repeat the question, I'm sorry, I --</p>	<p style="text-align: right;">Page 189</p> <p>1 quick break and go over my notes to see if I have</p> <p>2 anything else to ask you, okay?</p> <p>3 THE WITNESS: Okay.</p> <p>4 (A recess was taken from 12:00 to 12:08.)</p> <p>5 Q (By Ms. Stephens) All right. We're back on</p> <p>6 the record, Mr. McMahon, do you understand you're still</p> <p>7 under oath?</p> <p>8 A Yes.</p> <p>9 Q I just have a few more questions. When you</p> <p>10 did your internet research regarding NIBCO after one of</p> <p>11 the leaks, did you review any NIBCO materials like a</p> <p>12 catalog or marketing materials or anything like that?</p> <p>13 A I don't recall seeing anything like that.</p> <p>14 Q Okay. Have you ever been to the NIBCO</p> <p>15 website?</p> <p>16 A When I was doing research, I do not recall</p> <p>17 going to the website. I just recall -- I just typed in</p> <p>18 problems with NIBCO plumbing, I think is all I typed</p> <p>19 in. And I saw where people were having some problems,</p> <p>20 that's all I recall seeing.</p> <p>21 Q After you did that initial internet research</p> <p>22 and I believe that resulted in you finding a name of an</p> <p>23 attorney; is that right?</p> <p>24 A I saw the people who were having problems</p> <p>25 with it. I don't recall actually seeing their names on</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 190</p> <p>1 that paperwork until a later time when I -- after it</p> <p>2 got real serious, I knew I was in trouble, so that's</p> <p>3 when I contacted them.</p> <p>4 Q Okay. So you did internet research on NIBCO</p> <p>5 on multiple occasions?</p> <p>6 A Not more than twice.</p> <p>7 Q Okay. Well, that's multiple, that's more</p> <p>8 than one?</p> <p>9 A Okay. Multiple, yeah. I'm sure I looked at</p> <p>10 that twice.</p> <p>11 Q Okay.</p> <p>12 A The first time noticing the situation, the</p> <p>13 second time looking for somebody to contact.</p> <p>14 Q Okay. And you don't recall going to the</p> <p>15 NIBCO website on either of those occasions or reviewing</p> <p>16 any materials that were published by NIBCO during those</p> <p>17 times?</p> <p>18 A No, I don't recall.</p> <p>19 Q And again, your home on Dusty Trail, the</p> <p>20 NIBCO PEX products were already installed when you</p> <p>21 purchased that home; is that correct?</p> <p>22 A Yes.</p> <p>23 MS. STEPHENS: That's all the</p> <p>24 questions that I have.</p> <p>25 * * * E X A M I N A T I O N * * *</p>	<p style="text-align: right;">Page 192</p> <p>1 A Yes.</p> <p>2 Q How?</p> <p>3 A Without replacing the plumbing, I wouldn't</p> <p>4 have bought the house.</p> <p>5 Q You also gave some testimony as to how NIBCO</p> <p>6 could have provided a warning to you, hypothetically,</p> <p>7 that the products could prematurely fail. Do you</p> <p>8 recall that testimony?</p> <p>9 A Yes.</p> <p>10 Q And you said NIBCO may not know that the</p> <p>11 products were installed specifically in your home, is</p> <p>12 that accurate?</p> <p>13 A Yes.</p> <p>14 MS. STEPHENS: I'm going to, again,</p> <p>15 insert an objection in between there that it was asked</p> <p>16 and answered and what he previously testified is what</p> <p>17 he previously testified.</p> <p>18 Q (By Mr. Shamberg) Is it your understanding</p> <p>19 that NIBCO sells its products through distributors?</p> <p>20 MS. STEPHENS: I'm going to object,</p> <p>21 lack of foundation. Calls for speculation.</p> <p>22 A I don't know without more information.</p> <p>23 Q (By Mr. Shamberg) In a typical home, does a</p> <p>24 plumber install the plumbing system in the home?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 191</p> <p>1 BY MR. SHAMBERG:</p> <p>2 Q Okay. Mr. McMahon, I just have a few for</p> <p>3 you. Earlier today Ms. Stephens asked you about</p> <p>4 whether the plumbing system in your home on Dusty Trail</p> <p>5 was important to you at the time that you made the</p> <p>6 purchase. And correct me if I'm mischaracterizing any</p> <p>7 of your testimony, but you said no, the home was about</p> <p>8 seven years old and you assumed that the plumbing</p> <p>9 worked correctly, is that accurate?</p> <p>10 A Yes, along with the results from the</p> <p>11 inspection.</p> <p>12 MS. STEPHENS: I'm going to insert</p> <p>13 an objection and say whatever he said previously in his</p> <p>14 testimony is what he said, so asked and answered.</p> <p>15 Q (By Mr. Shamberg) At the time you purchased</p> <p>16 the home at Dusty Trail, was it important to you that</p> <p>17 the plumbing system in the home work properly?</p> <p>18 A Yes.</p> <p>19 Q Was it important to you that the plumbing</p> <p>20 system not fail?</p> <p>21 A Yes.</p> <p>22 Q If the inspector of the home at the time had</p> <p>23 told you that the plumbing system would prematurely</p> <p>24 fail, would that have affected your decision to</p> <p>25 purchase the home?</p>	<p style="text-align: right;">Page 193</p> <p>1 Q And that plumber purchases the products the</p> <p>2 plumber is going to use in the home from somewhere, is</p> <p>3 that fair?</p> <p>4 A Yes.</p> <p>5 Q And if you keep going through that chain of</p> <p>6 distribution, at some point it gets back to the</p> <p>7 manufacturer, correct?</p> <p>8 A Yes.</p> <p>9 Q Do you believe that if NIBCO were to provide</p> <p>10 a warning regarding its PEX products, it could issue</p> <p>11 that warning to someone in that chain of</p> <p>12 distribution?</p> <p>13 A Yes.</p> <p>14 Q And we've also discussed, as reflected in</p> <p>15 Exhibit 11, I believe that there is information that's</p> <p>16 printed on the pipe itself by NIBCO. Do you recall</p> <p>17 that?</p> <p>18 A Yes.</p> <p>19 Q Do you believe that if NIBCO wanted to</p> <p>20 provide a warning regarding the PEX products, it could</p> <p>21 print that warning on the tubing itself?</p> <p>22 A Yes.</p> <p>23 Q And you also testified that you have a</p> <p>24 recirculation system in your home for hot water, is</p> <p>25 that true?</p>


MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 194</p> <p>1 A Yes.</p> <p>2 Q And that allows you to get hot water</p> <p>3 immediately when you turn on a faucet rather than</p> <p>4 having to wait for it to heat up, is that accurate?</p> <p>5 A Yes.</p> <p>6 Q Do you know sitting here today whether the</p> <p>7 system in your home continuously recirculates or</p> <p>8 whether it might shut off from time to time, do you</p> <p>9 know?</p> <p>10 A No.</p> <p>11 MS. STEPHENS: I'm going to object,</p> <p>12 asked and answered.</p> <p>13 A No, I don't know.</p> <p>14 Q (By Mr. Shamberg) So all you know is that</p> <p>15 when you turn on the water it's hot right away?</p> <p>16 A Yes.</p> <p>17 Q We also talked about six different leaks that</p> <p>18 had occurred in your home, and I believe you said that</p> <p>19 the first four were more of a drip?</p> <p>20 A Yes.</p> <p>21 Q And that the last two caused more substantial</p> <p>22 damage?</p> <p>23 A Yes.</p> <p>24 Q Okay. Do you believe you would have first</p> <p>25 contacted your attorneys in this case before or after</p>	<p style="text-align: right;">Page 196</p> <p>1 MR. SHAMBERG: That's all I have.</p> <p>2 * * * E X A M I N A T I O N * * *</p> <p>3 BY MS. STEPHENS:</p> <p>4 Q Mr. McMahon, your attorney just asked you a</p> <p>5 question about whether NIBCO could put on its pipe</p> <p>6 something about its pipe may prematurely fail. Do you</p> <p>7 recall that question and what you answered?</p> <p>8 A Yes.</p> <p>9 Q Okay. If NIBCO did not know that information</p> <p>10 at the time that pipe was sold, how could it put that</p> <p>11 warning on its pipe?</p> <p>12 A I don't know.</p> <p>13 Q So they would have to have a time machine to</p> <p>14 go back in time and stamp it with that warning, if they</p> <p>15 didn't know that until later?</p> <p>16 MR. SHAMBERG: Objection,</p> <p>17 argumentative.</p> <p>18 A If there's such a thing as a time machine,</p> <p>19 yeah.</p> <p>20 Q (By Ms. Stephens) And Mr. Shamberg also</p> <p>21 asked you a question about this chain of distribution.</p> <p>22 At least regarding you, you don't know the plumber who</p> <p>23 installed the NIBCO PEX in your house, where that</p> <p>24 plumber bought it or where -- whoever bought --</p> <p>25 wherever he bought it bought that from, you don't know</p>
<p style="text-align: right;">Page 195</p> <p>1 those last two leaks that caused the more substantial</p> <p>2 damage?</p> <p>3 MS. STEPHENS: I'm going to object,</p> <p>4 form and lack of foundation.</p> <p>5 THE WITNESS: Do I still answer?</p> <p>6 MR. SHAMBERG: Uh-huh.</p> <p>7 A After the last two leaks, I felt like I</p> <p>8 needed to talk to somebody, which I think I looked</p> <p>9 y'all up and called you.</p> <p>10 Q (By Mr. Shamberg) So you believe it would</p> <p>11 have been after those March 30th and March 31st, 2014</p> <p>12 failures, the fifth and sixth leaks that we referred</p> <p>13 to?</p> <p>14 MS. STEPHENS: Object, asked and</p> <p>15 answered. He already testified on this subject.</p> <p>16 Q (By Mr. Shamberg) Go ahead.</p> <p>17 A I have got to get to you -- what she objected</p> <p>18 to and what he said.</p> <p>19 MR. SHAMBERG: Can you re-read my</p> <p>20 question?</p> <p>21 (Requested portion was read back.)</p> <p>22 A Before I contacted them?</p> <p>23 MS. STEPHENS: Same objection.</p> <p>24 Q (By Mr. Shamberg) Yes.</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 197</p> <p>1 that chain of distribution with regard to your Dusty</p> <p>2 Trail home, do you?</p> <p>3 A No.</p> <p>4 Q And so in the reverse, NIBCO would probably</p> <p>5 not know that chain of distribution either, they might</p> <p>6 know who they sold it to, but after that, they don't</p> <p>7 know, do they?</p> <p>8 A No.</p> <p>9 MS. STEPHENS: No further</p> <p>10 questions.</p> <p>11 * * * E X A M I N A T I O N * * *</p> <p>12 BY MR. SHAMBERG:</p> <p>13 Q If NIBCO was aware that its product could</p> <p>14 prematurely fail, then in that instance, it could have</p> <p>15 provided a warning, correct?</p> <p>16 A Yes.</p> <p>17 MR. SHAMBERG: Okay. Nothing</p> <p>18 further.</p> <p>19 MS. STEPHENS: No further questions.</p> <p>20 (The deposition was completed at 1:18 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

MICHAEL MCMAHON

November 17, 2016

<p style="text-align: right;">Page 198</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: MICHAEL MCMAHON</p> <p>3 DATE OF DEPOSITION: NOVEMBER 17, 2016</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p style="text-align: right;">Page 200</p> <p>1 STATE OF TEXAS X</p> <p>2 COUNTY OF DALLAS X</p> <p>3</p> <p>4 I, Vanessa S. Robertson, a Certified</p> <p>5 Shorthand Reporter duly commissioned and qualified in</p> <p>6 and for the State of Texas, do hereby certify that</p> <p>7 there came before me on the NOVEMBER 17, 2016 at</p> <p>8 Hampton Inn &amp; Suites, 1996 West Henderson Street,</p> <p>9 Cleburne, Texas, the following named person, to-wit:</p> <p>10 MICHAEL MCMAHON, who was duly sworn to testify to the</p> <p>11 truth, the whole truth, and nothing but the truth of</p> <p>12 knowledge touching and concerning the matters in</p> <p>13 controversy in this cause; and that he was thereupon</p> <p>14 examined under oath and his examination reduced to</p> <p>15 typewriting under my supervision; that the deposition</p> <p>16 is a true record of the testimony given by the witness.</p> <p>17 I further certify that pursuant to FRCP Rule</p> <p>18 30(e)(1) that the signature of the deponent:</p> <p>19 <u> X </u> was requested by the deponent or a</p> <p>20 party before the completion of the deposition, and that</p> <p>21 signature is to be before any notary public and</p> <p>22 returned within 30 days from date of receipt of the</p> <p>23 transcript;</p> <p>24 <u> </u> was not requested by the deponent or a</p> <p>25 party before the completion of the deposition.</p>
<p style="text-align: right;">Page 199</p> <p>1 _____</p> <p>2 _____</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 I, MICHAEL MCMAHON, have read the foregoing</p> <p>7 deposition and hereby affix my signature that same is</p> <p>8 true and correct, except as noted above:</p> <p>9 _____</p> <p>10 MICHAEL MCMAHON</p> <p>11 THE STATE OF _____ )</p> <p>12 COUNTY OF _____ )</p> <p>13</p> <p>14 Before me, _____, on</p> <p>15 this day personally appeared MICHAEL MCMAHON, known to</p> <p>16 me (or proved to me under oath or through</p> <p>17 _____) (description of identity card or</p> <p>18 other document) to be the person whose name is</p> <p>19 subscribed to the foregoing instrument and acknowledged</p> <p>20 to me that they executed the same for the purposes and</p> <p>21 consideration therein expressed.</p> <p>22</p> <p>23 Given under my hand and seal of office this</p> <p>24 _____ day of _____, 20____.</p> <p>25</p> <p>26 _____</p> <p>27 NOTARY PUBLIC IN AND FOR</p> <p>28 THE STATE OF _____</p> <p>29</p> <p>30</p>	<p style="text-align: right;">Page 201</p> <p>1 I further certify that I am neither attorney</p> <p>2 or counsel for, nor related to or employed by any of</p> <p>3 the parties to the action in which this deposition is</p> <p>4 taken, and further that I am not a relative or employee</p> <p>5 of any attorney or counsel employed by the parties</p> <p>6 hereto; or financially interested in the action.</p> <p>7 Certified to by me this 30th day of November,</p> <p>8 2016.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">             VANESSA S. ROBERTSON            TEXAS CSR 4930            EXPIRATION DATE: 12/31/2017            FIRM REGISTRATION No. 343            U.S. LEGAL SUPPORT            5910 NORTH CENTRAL EXPRESSWAY            SUITE 100            DALLAS, TEXAS 75206            (214) 741-6001         </p>

MICHAEL MCMAHON

November 17, 2016  
Index: \$1,064.40..2014

<div>Exhibits</div> <div>EX 0001 Michael McMahon 11 1716 3:14 10:25 11:2,19 15:2</div> <div>EX 0002 Michael McMahon 11 1716 3:15 19:24 20:5,11,22 26:15 29:23,24 38:24 46:11 57:13 64:8 183:6</div> <div>EX 0003 Michael McMahon 11 1716 3:16 59:6 95:21,23 154:13 155:5 156:12,13 165:15</div> <div>EX 0004 Michael McMahon 11 1716 3:17 59:8,9, 12 62:19 95:9 170:24,25</div> <div>EX 0005 Michael McMahon 11 1716 3:18 60:5 62:3,6,7 109:25 111:15 172:6 177:21</div> <div>EX 0006 Michael McMahon 11 1716 3:19 62:24 63:1 64:16 110:6 173:7</div> <div>EX 0007 Michael McMahon 11 1716 3:20 64:19, 21 110:12,18 112:4, 14</div> <div>EX 0008 Michael McMahon 11 1716 3:22 66:15, 17 112:22,23</div>	<div>EX 0009 Michael McMahon 11 1716 3:23 70:12, 14 71:1</div> <div>EX 0010 Michael McMahon 11 1716 3:25 76:12, 14,23 80:17</div> <div>EX 0011 Michael McMahon 11 1716 4:4 79:23,25 82:11 86:12,21 140:9,10 141:20,21, 23 147:8,13 193:15</div> <div>EX 0012 Michael McMahon 11 1716 4:6 86:25 87:2,4 88:4,9,14 91:9 92:3 113:20 114:1</div> <div>EX 0013 Michael McMahon 11 1716 4:7 92:17 93:12,15,21,24 94:4,11,14,24 102:20 117:25 118:1 129:13 135:20,21</div> <div>EX 0014 Michael McMahon 11 1716 4:8 143:16, 21,23 144:3 148:3 153:1 175:21,22</div> <div>EX 0015 Michael McMahon 11 1716 4:9 174:9,11 175:1,2 176:7,8 177:4 180:5 181:14</div> <div>\$</div> <div>\$1,064.40 177:24</div> <div>\$100 129:1</div> <div>\$13,703.87</div>	<div>176:16</div> <div>\$3,800 106:22 107:6 170:9 177:13</div> <div>\$300 132:25</div> <div>\$375 103:18</div> <div>\$380,000 107:5</div> <div>\$6.40 113:22</div> <div>\$60 123:20</div> <div>\$7,885.30 109:25 177:15 180:19</div> <div>\$75 102:7,11 103:13 104:24 105:18 123:13</div> <div>\$8,949.70 178:25 180:23</div> <div>\$9,908 110:7</div> <div>\$954.17 178:19</div> <div>0</div> <div>000001 59:8</div> <div>000003 60:6</div> <div>000004 63:2</div> <div>000005 64:22</div> <div>000006 66:18</div> <div>000007 70:15</div> <div>000008 76:15</div> <div>000009 80:1</div> <div>000010 87:3</div> <div>00095183 174:12</div> <div>00095185 181:15</div> <div>00095193 179:18</div> <div>0084760 143:22</div> <div>010282257 111:24</div> <div>06/20/2014</div>	<div>63:18</div> <div>07 184:19</div> <div>1</div> <div>1 10:25 11:2,19 15:2 28:8 46:10,14 61:13 107:1,3,10</div> <div>1,064 180:10</div> <div>1,064.40 109:13 180:17</div> <div>10 23:12 34:2 35:18 36:19 59:1,2 76:12,14,23 80:17 88:10 96:25 106:21 107:1 119:13 130:11 137:4 177:5</div> <div>10,000 107:22</div> <div>10/21/14 88:10</div> <div>100 82:21 83:4 123:20</div> <div>10:02 92:16</div> <div>10:11 92:16</div> <div>11 79:23,25 82:11 86:12,21 140:9,10 141:21,23 147:8,13 193:15</div> <div>12 20:11 86:25 87:2,4 88:4,9,14 91:9 92:3 113:20 114:1 137:4</div> <div>12:00 189:4</div> <div>12:08 189:4</div> <div>13 19:1,5 57:14 92:17 93:12,15,21, 24 94:4,11,14,24 102:20 117:25 118:1,7 129:13 135:21 154:20</div> <div>14 36:19 97:16,19, 24,25 98:1 143:16, 21,23 144:3 148:3 153:1 164:5 175:22</div> <div>14th 164:2,4</div>	<div>15 130:3,12 174:9, 11 175:2 176:8 177:4 180:5 181:14</div> <div>156978882 98:12</div> <div>160 82:22 83:8</div> <div>16th 70:3 129:14 130:13 131:8 135:2 136:5</div> <div>17th 11:16 175:14</div> <div>180 82:22 83:4,7</div> <div>1807 84:6</div> <div>18th 153:16 154:2 157:14</div> <div>190 181:17</div> <div>1:18 197:20</div> <div>1st 42:10 50:6</div> <div>2</div> <div>2 19:24 20:1,5,11, 22 26:15 29:24 38:24 46:11 57:13 59:8 60:22 61:1,6,8 64:8 111:16 126:2,4 183:6</div> <div>20 18:23 118:23 122:1</div> <div>2001 36:23</div> <div>2002 36:21,22,23</div> <div>2003 25:14</div> <div>2007 26:19,20,25 27:1 29:25 31:18</div> <div>2008 26:25</div> <div>2009 28:12</div> <div>2013 18:22,24 19:6 28:6,8,10,12 42:10 48:4 50:6 57:15 64:7 78:8,10, 16,21 100:4 119:1, 4,6 120:14 121:3 129:7 185:7</div> <div>2014 19:6 59:18 60:1 64:5 66:10</div>
---	--	--	---	--

MICHAEL MCMAHON

November 17, 2016  
Index: 2014020706..Americlaim

70:3 74:22 77:20 78:2,9,19 88:16 91:13,20 129:14 130:13 131:8 135:2, 21 137:10 141:16 144:7 146:11 147:20 153:3,17 154:2 157:14 158:3 162:2,6,22,23 164:5 165:20 171:11 174:2 175:15 178:18,24 179:16 195:11 <b>2014020706</b> 176:3 <b>2015</b> 97:2 <b>2016</b> 11:16 <b>213</b> 183:8 <b>22nd</b> 178:24 <b>23.43</b> 113:22 <b>23rd</b> 74:22 <b>24</b> 178:17 <b>27</b> 118:7 <b>27th</b> 118:25 120:14 121:3 129:7 <b>29th</b> 163:7 <b>2nd</b> 91:13,20 97:2 171:10 <hr/> <b>3</b> <hr/> <b>3</b> 59:6 63:8 95:21, 23 154:13 155:5 156:12,13 165:15 <b>3/21/14</b> 103:1 <b>3/30</b> 164:5 <b>3/30/14</b> 102:25 158:5 <b>30</b> 153:20 158:8 <b>30th</b> 22:14 158:3, 24 162:2,23 163:1, 7,8 164:14 195:11 <b>31st</b> 59:17 162:6, 22 165:20 195:11	<b>37</b> 24:16 <b>38210</b> 98:9 <b>3rd</b> 28:10 135:21 137:10 141:16 153:3 <hr/> <b>4</b> <hr/> <b>4</b> 59:6,8,9,12 62:19 65:2 95:9 109:12 119:14 156:15 170:21,24,25 <b>4-3-07-1</b> 81:18 <b>40</b> 118:12 119:10 <b>403</b> 83:13 <b>43</b> 183:8 <b>48</b> 121:14 122:16 131:20 <b>48-hour</b> 156:1 <b>4th</b> 28:10 77:20 78:2 <hr/> <b>5</b> <hr/> <b>5</b> 59:6 60:5 61:23 62:2,3,4,6,7,19 66:22 109:25 111:15 119:12 130:10 170:21 172:6 177:21 <b>5,000</b> 17:8 <b>5101</b> 22:24 <b>5359028</b> 60:13 <b>56</b> 20:15,21,23 22:18 <b>57</b> 26:17 28:15 <b>58</b> 29:23 31:16 <b>59</b> 21:23 38:23 40:8,14	<hr/> <b>6</b> <hr/> <b>6</b> 62:24 63:1 64:16 70:18 110:6 173:7 <b>60</b> 41:4,21 <b>61</b> 42:9 <b>62</b> 57:15,24 64:8 78:16 119:4 <b>65</b> 22:6 <b>66</b> 20:16,21,23,24 22:18 <b>67</b> 24:3 <hr/> <b>7</b> <hr/> <b>7</b> 64:19,21 70:6 76:18 77:1 97:15 110:12,18 112:4,14 154:19 <b>7,000</b> 107:24 <b>7,885.30</b> 109:7 <b>73</b> 82:23 83:8 <b>75</b> 123:3,19 <b>75052</b> 36:1 <b>7th</b> 144:7 146:11 147:20 <hr/> <b>8</b> <hr/> <b>8</b> 66:15,17 70:7,8 80:2 97:15 112:22, 23 <b>8,000</b> 180:1 <b>8,670</b> 109:14 <b>8,675</b> 109:15 <b>84761</b> 143:22 <b>889</b> 98:8	<hr/> <b>9</b> <hr/> <b>9</b> 70:12,14 71:1 87:7 <b>9,908</b> 109:11 <b>95192</b> 177:5 <b>95212</b> 174:13 <b>972 824-3159</b> 54:2 <b>9:01</b> 53:10 <b>9:14</b> 53:10 <b>9:40</b> 76:2 <b>9:44</b> 76:2 <hr/> <b>A</b> <hr/> <b>AC</b> 161:8 <b>access</b> 99:24 100:1 <b>accessible</b> 118:16 <b>accessories</b> 39:2,4 <b>accurate</b> 7:7 57:20 72:18 122:12 191:9 192:12 194:4 <b>achieved</b> 24:21 <b>action</b> 14:16 20:7 46:13 65:7,8,15 111:9 148:10 150:9 180:6,15 <b>actual</b> 173:6 <b>add</b> 139:12 180:23 <b>added</b> 176:11 180:11,13 <b>addition</b> 29:18 <b>additional</b> 76:5 <b>address</b> 22:22 23:4 35:21 61:24,25 62:14,16 98:8 143:4 144:15 145:12,15	171:1 <b>addresses</b> 65:11 <b>adds</b> 180:22 <b>adjust</b> 49:4 <b>admit</b> 150:21 <b>adults</b> 26:10 <b>advise</b> 8:17,22 <b>affected</b> 122:11 161:23 191:24 <b>agent</b> 44:23 45:11 100:19,24 <b>agree</b> 11:8 93:18 <b>agreement</b> 16:17,20 17:4 <b>ahead</b> 44:9 58:22 92:13 114:12 117:17,20 148:12 159:21 187:24 195:16 <b>air</b> 24:24 129:21 160:20 163:3 164:16 <b>aircraft</b> 25:11 <b>airplane</b> 25:3 <b>allegation</b> 18:13 <b>allegations</b> 12:14 26:14 <b>allowed</b> 25:4 <b>Alvarado</b> 23:15 43:17 <b>amended</b> 11:9 20:6 26:14 <b>American</b> 95:16 98:3,5,13,17 99:17 101:13,24 103:9 104:12,21 106:1 109:4 120:21 121:3 123:15 124:9 129:11 131:5 134:24 138:3 157:6, 18 159:3,10 169:18 <b>Americlaim</b> 109:5,9 172:7
---	---	--	--	---



MICHAEL MCMAHON

November 17, 2016  
Index: amount..break

177:21 <b>amount</b> 103:14 108:4,15,17 109:23 128:23 132:19 177:15,17 178:7,19, 22 179:1 180:15 181:10,11 <b>amounts</b> 109:15 110:10 113:19 114:6 115:10 178:11 179:9 180:23 <b>analyze</b> 61:5 <b>annotated</b> 74:25 75:4 <b>answers</b> 5:20 6:1,6 7:7 96:16 <b>anymore</b> 128:13 <b>apologize</b> 25:5, 10 37:22 123:9 164:2 <b>appears</b> 171:1 175:8 176:13 177:17,23 178:18 180:5 182:23 <b>applaud</b> 26:1 <b>appraisal</b> 172:2, 9,19 <b>appraiser</b> 171:22,25 <b>approve</b> 108:3 <b>approximate</b> 107:9 184:19 <b>approximately</b> 28:4 36:13 57:16 107:5,23 118:12 119:5 129:7 130:3 131:8 135:2 141:15 147:20,22,23 153:3 154:2 157:14 158:3, 8 162:2 185:9 <b>approximation</b> <b>s</b> 107:8 <b>April</b> 66:10 70:3 74:21 77:20 78:2,19 171:10 178:24	<b>area</b> 29:7 32:13 85:4,5,17 118:8,22 136:13,14 141:6 158:10,11 181:25 <b>areas</b> 88:22 <b>argumentative</b> 196:17 <b>arrived</b> 137:25 <b>arrow</b> 158:7 162:14 <b>asks</b> 117:16 <b>assembled</b> 183:14 <b>assessed</b> 71:2 <b>assigned</b> 120:19 121:10 <b>assume</b> 6:25 42:3 74:17 101:17 105:17 184:15,16 186:5 <b>assumed</b> 125:17 191:8 <b>assurances</b> 69:10 <b>assure</b> 73:8 <b>assured</b> 34:12 35:6 68:11,23 <b>ASTM</b> 82:15 <b>ASTM-F</b> 84:6 <b>attached</b> 89:4 90:7 91:2 144:22 <b>attaches</b> 93:15 <b>attachment</b> 60:22 61:1,4,6,7,13 63:8 65:2 66:22 70:18 76:18 77:1 80:2 87:7 109:12 111:16 144:18 <b>attention</b> 20:10 <b>attic</b> 85:11,12 <b>attorney</b> 8:3 9:1 10:9 93:7 152:14 157:22,24 166:23 189:23 196:4	<b>attorney's</b> 116:25 <b>attorney/client</b> 93:6 <b>attorneys</b> 9:7,14 149:8,21,22 174:14 194:25 <b>August</b> 26:19 27:1 <b>authorization</b> 144:18 145:7 175:25 <b>automobiles</b> 100:23 <b>award</b> 16:25 17:6 <b>aware</b> 14:6 33:21 100:14 135:11 197:13 <hr/> <b>B</b> <hr/> <b>B-O-N-D-E-L-I-D</b> 80:8 <b>back</b> 22:21 28:25 30:22 41:13,17 43:17 52:24 53:12 55:1 57:13,14 66:3 72:3 76:3 79:13 91:6,23 92:18,22 96:15,16 100:4 103:1 110:22 117:24 121:13 124:21 125:13 128:7 134:9 137:19, 20 138:15,23 140:2 142:24 148:15,18, 20,24 149:10 150:6 151:14,17 152:6 163:7 164:24 166:9, 17 172:3 174:5 179:15 187:8,10 188:1,3 189:5 193:6 195:21 196:14 <b>bad</b> 88:7,24 89:15, 21 139:7 155:20 156:17 <b>bands</b> 83:20 84:3	<b>bank</b> 179:12,13,14 <b>banking</b> 179:3 <b>barely</b> 26:1 <b>based</b> 16:24 38:4 62:19 140:13 141:22 156:10,13 181:1 184:20 <b>basement</b> 85:17 <b>basic</b> 10:5 <b>basically</b> 16:10 24:18 <b>basis</b> 26:22 30:3, 5 31:18 42:16 49:11 183:18 <b>Bates</b> 60:5 63:1 64:21 66:17 70:14 76:15 80:1 87:3 143:22 174:12 177:5 <b>bath</b> 29:6 <b>bathroom</b> 182:3, 6,7 <b>bathrooms</b> 29:16 <b>baths</b> 29:7 <b>bear</b> 163:19 <b>bearing</b> 70:14 <b>bearings</b> 53:3 <b>bears</b> 60:5 79:25 87:2 143:21 <b>bedroom</b> 29:6 <b>bedrooms</b> 29:7, 14,15 <b>began</b> 26:18 30:1 <b>beginning</b> 181:13 <b>believed</b> 72:19 101:9 113:7 <b>Bible</b> 115:17 128:14 132:8,17,23 <b>big</b> 18:25 90:4	<b>birth</b> 5:9 <b>bit</b> 7:4 130:8 <b>bladder</b> 51:13 <b>blog</b> 15:19 <b>blue</b> 89:2 125:11 <b>body</b> 144:21 171:6 <b>Bonde</b> 80:8 <b>Bondelid</b> 86:17 105:18 <b>bonus</b> 16:24,25 17:6 <b>bottom</b> 11:3 29:4,5 86:1 167:18, 25 177:4 <b>bottoms</b> 161:15 <b>bought</b> 32:16 34:10 38:20 43:21 44:2,17,24 45:12 56:1 100:4,10,11, 15,18,20 185:10 192:4 196:24,25 <b>Boulevard</b> 98:9 <b>box</b> 90:2 128:8 <b>boxes</b> 115:19 127:14 128:5,6,8 129:1 132:7 153:6 <b>brain</b> 148:5 <b>brand</b> 16:12 35:10 54:16 67:11, 16 122:22 124:17, 19 125:17,18,20 126:16 129:4 133:19,22 134:14, 15 186:19 <b>brands</b> 138:11 <b>brass</b> 33:5 34:13 35:9 37:9 43:19 47:19 68:2 84:6,9, 11 126:20 134:2 <b>break</b> 30:23 31:7 51:6 53:9,15 57:23 76:6 92:9,13,23 189:1
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MICHAEL MCMAHON

November 17, 2016  
Index: briefed..conclusion

<b>briefed</b> 7:19 <b>Brigham</b> 144:6 <b>bringing</b> 25:5 <b>broke</b> 179:25 <b>brought</b> 65:22 125:19,20 <b>builder</b> 30:10,13 31:13 34:14 53:21 54:4,22 184:14,23 <b>builder's</b> 53:22 <b>building</b> 37:14, 15 <b>built</b> 26:25 27:7,9, 20 28:4,19 31:9 34:1,11,19 36:13 37:1 54:23 57:7 183:21 185:1 <b>bulging</b> 163:13 <b>bullets</b> 73:1 <b>bunch</b> 11:20 73:1 140:11 145:24 175:18 <b>buried</b> 85:7 <b>busy</b> 25:21 <b>buy</b> 27:23 28:2,22 34:16 45:9 100:19 <b>buying</b> 28:21 38:8 <hr/> <b>C</b> <hr/> <b>C-BONDELID</b> 86:2 <b>C-R-E-S-T</b> 54:8 <b>calculator</b> 103:17 <b>call</b> 17:19 18:6 19:22 23:7 33:13 34:22 37:23 71:7 96:10 97:13 98:20 101:2 120:21 125:7 131:11 135:4,18 146:18 150:5,12,13, 24 167:9 168:1	174:3 <b>called</b> 18:12 22:14,15 33:11 48:14 54:8 72:2 120:16,18 121:2,3, 7,12,13 122:23 131:10 137:18 142:6 143:18 146:15 150:20 155:13,24 159:3 165:23 177:4 185:18 195:9 <b>calling</b> 12:11 51:14 164:6 <b>calls</b> 114:11 116:14 187:23 192:21 <b>caption</b> 20:7 96:1 <b>card</b> 168:23 <b>cardboard</b> 115:19 127:14 <b>care</b> 68:21,22 116:21 <b>career</b> 24:18 <b>carpet</b> 167:8 168:4,11 182:18,20, 21,24 <b>carpeted</b> 182:19 <b>case</b> 9:7,11,15,18 17:19 31:2 91:1,16 115:5 194:25 <b>cases</b> 85:7 160:16 <b>cash</b> 105:19 124:6,8 157:1 <b>catalog</b> 189:12 <b>caused</b> 57:19 99:10 114:18 116:11 161:16 194:21 195:1 <b>causing</b> 156:21 159:14 <b>ceiling</b> 118:19 119:21 136:21 163:11 167:3 168:10	<b>ceilings</b> 85:24 <b>central</b> 160:20 <b>certificate</b> 5:10 <b>certification</b> 86:8 <b>chain</b> 193:5,11 196:21 197:1,5 <b>chance</b> 115:4 <b>change</b> 165:8 183:13 <b>changed</b> 52:3 <b>charge</b> 102:11 <b>charged</b> 79:15 110:7 <b>charges</b> 109:15 <b>Charles</b> 16:5 <b>check</b> 66:3 75:10 105:19 109:7 124:6 157:1 178:19,25 180:10,13 181:8 <b>checks</b> 174:19 179:5,8,23 <b>Chester</b> 5:9 <b>children</b> 26:10 <b>choice</b> 33:14 <b>chose</b> 54:23 72:6 <b>chosen</b> 54:13,16 <b>Chuck</b> 77:3 80:7, 10 <b>Circle</b> 23:9 35:23 37:22 <b>circled</b> 81:9 <b>circu</b> 51:20 <b>circulate</b> 52:7 <b>circulated</b> 48:10 <b>circulates</b> 52:23 <b>circulating</b> 49:9 84:25 <b>circulation</b> 48:13 52:5 84:18, 21,24	<b>claim</b> 59:10 95:11 108:1 170:5 171:24 <b>claiming</b> 109:1 <b>claims</b> 101:14 171:15 <b>clamped</b> 156:18 <b>clamps</b> 22:1 39:3,6,21 40:10,17, 20 46:22 47:9,15 <b>clarification</b> 117:23 <b>clarified</b> 38:24 39:4 40:7 137:1 <b>clarify</b> 22:18 47:12 96:9 <b>clarifying</b> 55:1 <b>class</b> 13:21 14:16 16:17 17:4,13,14, 16,18,22,24 18:3 20:6 148:10 150:9 <b>clean</b> 71:3 <b>clear</b> 6:4,17 115:14 123:5 <b>cleared</b> 169:9 <b>Cleburne</b> 11:17 <b>client</b> 12:11 25:8, 10 <b>climbed</b> 122:18 <b>close</b> 22:14,15 73:9 102:23 103:21, 22 108:19 133:16, 18 136:18 138:19 150:18 158:7 165:6 166:5,6 171:13 <b>closer</b> 130:8 <b>closet</b> 52:22 119:19 <b>clothing</b> 115:19 128:9 <b>code</b> 22:25 144:23 <b>Coiled</b> 147:1 <b>cold</b> 83:10	<b>College</b> 24:7 <b>color</b> 89:2 124:20, 21,22 125:8,16,18 133:23 147:4 <b>combination</b> 96:16 <b>combined</b> 72:11 <b>combining</b> 128:7 <b>commit</b> 8:12 <b>communicated</b> 15:13 <b>communicatin</b> <b>g</b> 19:18 171:14 <b>communicatio</b> <b>ns</b> 8:21 9:6 <b>company</b> 32:14 45:14 54:7,8 63:7, 22 65:17 66:21 70:23 71:9 72:1 79:4,20 105:8,10 106:4,8,11 108:1 109:24 110:3,15,18 113:11 149:3,10 152:12 154:12 160:1 168:17 <b>compared</b> 75:1 <b>complaint</b> 18:7, 10,12 20:7 26:15 183:7 <b>complete</b> 31:4 <b>completed</b> 26:19,25 31:18 122:24 197:20 <b>completely</b> 160:22 <b>complied</b> 150:2 <b>computer</b> 14:12 15:21 19:14 142:3 143:14 <b>concerned</b> 152:7 <b>conclusion</b> 114:12,20 116:15 187:24
---	--	--	---	--

MICHAEL MCMAHON

November 17, 2016  
Index: concrete..Dear

<b>concrete</b> 182:21 <b>conditioning</b> 129:21 160:20 163:3 164:16 <b>conditions</b> 183:13 <b>confused</b> 9:22 116:23 152:5 <b>confusing</b> 62:9 146:4 <b>connect</b> 47:7 139:1 <b>connectors</b> 138:10 <b>consideration</b> 38:7 <b>consistency</b> 78:25 <b>constantly</b> 55:4 <b>construction</b> 26:17 34:11 63:15 <b>contact</b> 30:21 129:7,10 135:2 141:16,18,19 142:1 150:4,10 152:7 157:15,21 162:2 166:20,23 169:18, 23 173:16,19,23 174:1 190:13 <b>contacted</b> 14:17 18:18 137:19 141:24 148:10 151:12 152:14 170:14 171:12,20, 22 186:3 190:3 194:25 195:22 <b>contacting</b> 157:17 172:24 <b>contained</b> 175:1 <b>contents</b> 93:15 <b>continue</b> 22:19 121:22 <b>continued</b> 52:6 78:11	<b>continuous</b> 49:7,11 85:1 <b>continuously</b> 52:7 84:21,24 194:7 <b>contract</b> 72:13 <b>contracted</b> 30:10 154:11 <b>contractor</b> 41:10 <b>contractors</b> 41:5 42:1 <b>contrast</b> 119:3 <b>conversation</b> 142:25 143:6 <b>conversations</b> 9:1 <b>copied</b> 82:24 83:2 87:12 88:2 <b>copies</b> 61:9 168:21 <b>copper</b> 33:25 34:13 35:1,7,8 38:17,18 43:19 69:9 83:20 84:3 <b>copy</b> 8:10 61:10 87:19 105:7 149:23 <b>corner</b> 60:10,12 61:24 62:11 129:19 130:10 131:25 136:2 145:10 175:24 <b>correct</b> 27:1,22 28:6 31:11 32:2 35:1 37:1 38:18 39:7 40:2 41:19,23 42:10 44:20 45:21 47:4,10,16,20 50:15 56:16 60:2 62:21 63:12,15 65:9 67:17 69:11 71:5,17 72:11,23 77:25 78:4,17,22 79:8 80:22 85:18,24 87:13 90:19,23 91:3,17 92:1,10 95:18 98:18 99:2 100:12 101:5 104:4,	13 105:1,5,20,23 108:4 109:25 110:4, 7,15 111:14 112:11, 15,23 113:9 118:2, 15 119:1,6 122:8 130:15 138:4,18 140:14 144:15,16 152:10,15,24 153:12,24 156:10 157:3 158:15 166:14 173:6,10,14 174:6 185:2,7,16 190:21 191:6 193:7 197:15 <b>correctly</b> 72:8 91:12 191:9 <b>cost</b> 88:7 104:2,11 105:1 172:16 173:25 <b>costs</b> 98:6 113:19 <b>counsel</b> 16:17 17:4 18:4,11,18 19:10,19 91:16,25 93:25 95:4 96:9,19 <b>counsel's</b> 93:4,5 <b>county</b> 32:15 <b>couple</b> 21:15 118:22 119:21 128:4 131:17 133:9 155:17 169:3 178:14 <b>court</b> 5:12,19,25 6:10 18:12 155:21 <b>courtroom</b> 5:14 <b>cover</b> 98:25 99:1, 6,10,20,22 101:10 169:25 170:18 <b>coverage</b> 59:24 60:1 <b>covered</b> 21:11 50:3 93:6 98:5 99:12,15 100:16 101:5 104:3,7,12, 14,21 105:1 113:16 120:18 134:23 <b>covers</b> 99:9 <b>crawl</b> 129:24	<b>crawled</b> 133:6 <b>credit</b> 15:5 <b>Crest</b> 54:8 <b>crimp</b> 138:23,24 <b>Cunningham</b> 63:15,23 109:10 110:7 172:25 173:5 <b>curious</b> 109:1 <b>current</b> 14:20 37:17 <b>cut</b> 65:19 126:6,7, 12,15 133:8,16 138:25 139:6,9,10 <hr/> <b>D</b> <hr/> <b>D's</b> 16:4,5 49:23 77:2,23 79:3,11 80:7,11 105:4,16 120:12 121:10,17 122:15,16 123:24 126:22 129:3 131:2, 4,12 133:4 134:8, 18,22 137:18,19 138:6 140:2,12 141:22 147:10 154:10 155:2 <b>D-A-V-I-S</b> 54:1 <b>dam</b> 72:10 <b>damage</b> 12:19 63:7,22,23 64:2 70:22 71:2 72:18 99:5,10,12,15 104:14 106:6,9 107:17 110:4 117:2 127:8 128:1 132:3,5 157:10 160:17 161:2,7,8,16 162:12,13 163:2 167:8 168:8 170:1, 5,15,16 171:12 172:12 173:3 176:20 179:20 180:12 194:22 195:2 <b>damaged</b> 57:19 127:17 128:15,19 153:4,6,11 160:14	162:10 <b>damages</b> 59:10 101:10 103:24 109:1,3 110:10 114:5 115:15 116:9, 12 132:19 170:18 171:23 172:1 <b>dark</b> 124:25 125:6, 7 <b>date</b> 22:14 36:20 50:5 56:6 58:18 59:13,17 62:20 63:17,18 70:9 74:22 75:1 77:19 80:15 81:18,21 83:13 88:8 93:20 96:25 97:2,3, 10 102:22 103:10 118:4 121:5,6,7 129:14 130:13,18 143:17 144:7,23 145:3 146:10,11,14 147:21 153:11 162:15,16 170:13 171:11,13 186:6 <b>dated</b> 70:2 74:21 78:2 91:12 102:25 135:21 162:6,22,23 163:25 164:10 171:10 175:14 <b>dates</b> 22:16 58:2, 4,13 59:15 75:1 78:24 93:1 94:21 102:23 178:11 185:12 <b>Davis</b> 54:1 <b>day</b> 49:10,11 55:4 57:25 72:1 120:22, 23 121:4,11 123:10, 16 130:14,16,17 131:16,21 155:17 162:25 163:6,8,21 164:10,13,21,25 165:2,9 166:9,16 170:17 <b>days</b> 66:1,7 131:17 155:17,23 156:2 162:21 166:13,17 <b>Dear</b> 171:7
--	---	--	---	--

MICHAEL MCMAHON

November 17, 2016  
Index: debt..essentially

<b>debt</b> 149:17 <b>December</b> 18:23,24 19:1,6 28:9 118:7,25 119:6 120:14 121:3 129:7 185:7 <b>decided</b> 72:5 146:18 <b>decision</b> 54:20 152:3 173:13 184:9, 13 187:14 191:24 <b>deducted</b> 170:12 <b>deductible</b> 50:16 99:12 102:4, 5,9,14,18 103:2,5,9 104:8,11,24 105:12, 13 106:2,19,24 107:6,10,15 108:6,7 123:4,13,19,24 124:6,11 134:19 137:24 157:1 159:9 166:1,7,11 170:9 177:1,12,13 <b>deductibles</b> 103:13 109:6 <b>deep</b> 167:10 <b>defendant</b> 12:8 93:16 96:3 <b>Defendant's</b> 11:9 <b>defer</b> 39:19 40:25 47:25 51:12 <b>degrees</b> 82:22, 23 83:7,8 <b>demonstrated</b> 48:9 <b>department</b> 142:19,21 <b>deposited</b> 179:9,10,24 <b>deposition</b> 7:10,12 9:10 10:7,8, 19 11:10 39:5 46:9 53:18 75:19 93:9,21 115:11 197:20	<b>deposits</b> 179:6 <b>depth</b> 149:17 <b>depths</b> 10:4 <b>describe</b> 29:1 98:21 132:5 156:6 158:17 162:17 <b>describing</b> 48:18 <b>Description</b> 146:21 <b>design</b> 34:21 <b>designation</b> 82:24 <b>designed</b> 183:14 <b>detail</b> 77:17 117:25 <b>details</b> 34:18 <b>determination</b> 95:5 <b>determine</b> 59:20 60:7 64:16 108:16 124:12 <b>difference</b> 18:25 109:11 110:9 <b>differently</b> 185:21,23 <b>difficult</b> 65:4 <b>digits</b> 176:10 <b>dining</b> 29:8 <b>direct</b> 20:10 154:13 <b>directly</b> 82:1 102:3 111:10 167:6 <b>discard</b> 132:10, 14,20 <b>discarded</b> 116:4 127:20 128:8 <b>disclosing</b> 43:23 44:19 <b>disclosure</b> 43:23 44:6	<b>discontinued</b> 77:12 <b>discovered</b> 120:23 122:13 148:10 149:16 152:8,11 163:21,23 164:8 <b>discuss</b> 10:7,8, 11,14 49:17,21 117:25 159:13 <b>discussed</b> 8:22 19:10 57:24 84:23 116:9 117:4 123:14 193:14 <b>discussing</b> 182:12 <b>discussion</b> 68:5,9 73:17,24 76:4 156:19 <b>dispatched</b> 155:13 165:25 <b>distributed</b> 183:15 <b>distribution</b> 193:6,12 196:21 197:1,5 <b>distributors</b> 192:19 <b>document</b> 11:6 20:6 63:3 70:16 71:1 72:21 79:25 92:13 93:3,5,11,18, 25 94:8 96:21 97:1, 8 143:21 168:14 178:4 <b>documentation</b> 69:21 <b>documents</b> 8:5, 8,16 9:4,9,11 50:17 58:15,17,21 59:1 61:16,20 64:14 69:24 94:15,17,23 95:3 101:16 108:17, 19,20,21,22,25 174:12 175:1 <b>dollars</b> 106:17 128:18	<b>Dove</b> 23:9 35:23 37:22 <b>downloaded</b> 143:13 <b>downstairs</b> 163:10,13 <b>drafted</b> 24:8 <b>drain</b> 42:24 <b>drains</b> 47:3 85:11 <b>dried</b> 127:18 177:25 <b>drip</b> 131:23,24 156:6 158:18 194:19 <b>dripped</b> 160:19 <b>dripping</b> 122:3,4, 5,7 132:2 158:20 <b>drive</b> 72:1 <b>dropped</b> 123:20 <b>dry</b> 65:23 127:13 161:21 <b>drying</b> 110:13 180:7 <b>ducting</b> 129:21, 22,24,25 <b>ductwork</b> 133:7 136:15 <b>duly</b> 5:3 <b>Dura-pex</b> 57:16 83:21 84:4,11 <b>Dusty</b> 22:24 23:8 26:7 32:17 33:9 37:13 38:8 41:10,23 43:21 44:24 45:12, 17 47:22 48:3 49:19 54:13 55:10,16,22 74:23 82:5 92:5 107:17 113:4 118:5 187:1 190:19 191:4, 16 197:1 <hr/> <b>E</b> <hr/> <b>E-8</b> 24:22	<b>E-MAIL</b> 19:16,17, 19,21 61:24,25 62:12,14,16 65:10 143:5 144:15,21 145:1,20 146:10 147:19 148:2 150:6 170:24 171:1,6,16, 19 174:5 175:22 <b>E-MAILED</b> 143:12 <b>E-MAILING</b> 171:18 <b>earlier</b> 38:25 47:13 83:25 191:3 <b>early</b> 26:19 57:15 64:7 78:16,21 119:4 <b>effective</b> 75:19 93:8 <b>electrician</b> 25:11 <b>Emery</b> 146:2 <b>end</b> 28:9 75:12 87:24 138:24 139:8 173:5 184:19 <b>ended</b> 96:21 97:7 165:16,24 172:24 <b>ends</b> 20:16 126:12,13 156:18 <b>engagement</b> 16:16 <b>entered</b> 145:18 <b>entitle</b> 17:4 <b>entitled</b> 8:25 20:6 <b>entries</b> 177:8 178:10 <b>entry</b> 129:18 135:21,24 136:5 158:4 162:5 177:23 178:17 <b>equipment</b> 65:22 <b>error</b> 119:7 <b>essentially</b> 34:16
---	--	--	---	---

MICHAEL MCMAHON

November 17, 2016  
Index: estate..forward

<b>estate</b> 44:12,23 45:3,11,14  <b>estimate</b> 64:18 66:25 70:21 71:13, 16 72:6,7,12,17 73:15,16,21,23 74:1,2,9,20 107:19, 25 108:3 119:13 128:18,20 132:22 172:1  <b>estimates</b> 71:12, 19 172:15,21 173:2 175:3  <b>estimating</b> 72:23  <b>evaluation</b> 152:14  <b>evaporate</b> 160:25  <b>everybody's</b> 68:24  <b>evidently</b> 145:3  <b>exact</b> 22:16 80:15 98:15 106:16,22 108:15 128:23 133:9  <b>examine</b> 142:24 150:22  <b>examined</b> 22:3  <b>excuse</b> 70:8 88:10 109:4 115:14, 24 155:11  <b>exercise</b> 167:11, 19,23 168:3  <b>exhibit</b> 10:25 11:2,19 15:2 19:24 20:5,11,22 26:15 29:23 38:24 46:11 57:13 59:6,8,9,12 60:5 61:12 62:3,6,7, 19,24 63:1 64:8,16, 19,21 66:15,17 70:6,12,14 71:1 76:5,12,14,23 79:23,25 80:17 82:11 86:12,21,25 87:2,4 88:4,9,14 91:9 92:3,17 93:12, 15,21,24 94:4,11, 14,24 95:9,21,23 102:20 109:22,25 110:6,12,18 111:15 112:4,14,22,23 113:20 114:1 117:25 118:1 129:13 135:20 140:9,10 141:20,23 143:16,21,23 144:3 147:8,13 148:3 153:1 154:13 155:5 156:12,13 165:15 170:24,25 172:6 173:7 174:9,11 175:1,21 176:7 177:4,21 180:5 181:14 183:6 193:15  <b>exhibits</b> 58:21 59:3 75:17 76:7 170:21 172:5 177:19  <b>expansion</b> 55:13,16,19,25 56:5,15,18,21 57:3, 7  <b>expect</b> 105:5  <b>expected</b> 108:5 183:11  <b>expense</b> 108:12  <b>expenses</b> 87:10 99:14 107:16 114:9 115:10,12 116:9,21 177:2  <b>experience</b> 42:21 74:13,15  <b>expert</b> 93:4  <b>explain</b> 36:9 48:8 70:25 86:13 96:8 107:21  <b>explained</b> 48:9, 12 49:13 77:6 171:22  <b>extent</b> 82:20 95:2 110:2 171:14  <b>extra</b> 108:11	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <b>facilitate</b> 169:7  <b>fact</b> 8:16 12:21 125:15 185:1  <b>faded</b> 70:4 81:16  <b>Fahrenheit</b> 82:22 83:9  <b>fail</b> 144:24 185:20 186:4 191:20,24 192:7 196:6 197:14  <b>failures</b> 195:12  <b>fair</b> 93:22 193:3  <b>familiar</b> 16:6 17:10 20:22 21:7 45:2 67:21 95:23 137:21  <b>family</b> 10:12 115:17 128:14 132:8  <b>fancy</b> 132:23  <b>fans</b> 66:3 161:4, 19,21  <b>Fast</b> 65:6,7,8,15 111:9 180:6,14  <b>Fastactionrest oration.com</b> 65:12  <b>faucet</b> 194:3  <b>fault</b> 185:24  <b>February</b> 135:21 137:10 141:16 144:7 146:11 147:20 153:3,16 174:2  <b>feedback</b> 38:13  <b>feel</b> 166:10  <b>fees</b> 116:25  <b>feet</b> 118:12,23 119:10,12,13 122:1 130:3,10,11,12 135:25 136:7,25 137:1,4 153:20	158:8  <b>felt</b> 195:7  <b>figure</b> 108:19 115:20 123:23 180:1  <b>figures</b> 106:16 133:2  <b>filed</b> 18:12 150:9  <b>final</b> 162:5  <b>finalize</b> 44:7 45:4  <b>find</b> 14:17 53:20 54:3,7 62:4 71:21 78:25 120:18 142:24 152:16 163:2 185:24  <b>finding</b> 189:22  <b>findings</b> 39:19  <b>fine</b> 23:1 46:4 51:10,11 109:20  <b>finger</b> 175:5  <b>finish</b> 6:5,6 75:16 123:6,8  <b>firm</b> 15:10,12 97:4  <b>fitting</b> 89:4 126:3, 5,8,9,11,13,19 133:10,17,25 134:2 136:17 138:17,19, 22 139:6,7,10,11, 12,16,24 159:16  <b>fittings</b> 22:1 33:2, 6 37:6,10 39:3,6,20 40:10,17,20 46:22 47:6,15,18,19,23 67:6,24 83:21 84:4, 9,11 90:7,10 91:2 125:24 126:1,14,16 133:14 134:14 138:10 139:4 150:18 173:21  <b>fix</b> 43:3 72:10 86:18 104:19 130:24 133:5 138:6 140:3 151:1 156:8, 14 157:19 159:18  <b>fixed</b> 77:23 78:1 140:4 151:5 160:4	161:17,24 167:1  <b>fixes</b> 173:3  <b>fixing</b> 24:8 159:12 161:2 173:3  <b>flight</b> 25:2  <b>flip</b> 57:14 95:22 174:15 181:13  <b>flooded</b> 167:6  <b>floor</b> 29:4,5,6,9 90:3 118:10,15 119:24,25 120:1 121:25 122:7 127:12,15 153:8,19, 22,23 156:3 158:14, 21 160:21,23 162:8 163:9 167:3,18,20 168:10,11,16 170:3 182:8,9,14  <b>floors</b> 29:21 118:17  <b>flow</b> 84:21  <b>fly</b> 25:3  <b>follow</b> 26:14  <b>follow-up</b> 6:16 102:24 166:4  <b>followup</b> 102:11  <b>Force</b> 24:25  <b>foreseeing</b> 187:16  <b>forever</b> 186:7  <b>Forgive</b> 36:16  <b>forgotten</b> 21:10  <b>form</b> 43:23,25 44:22,25 77:19 78:12 87:20 142:23 143:7,9,19 145:6, 19,22 146:11,19 147:19 148:3 151:14,22,25 165:11 195:4  <b>forum</b> 15:19  <b>forward</b> 46:8 93:20
---	---	--	--



MICHAEL MCMAHON

November 17, 2016

Index: found..horizontal

<b>found</b> 15:22 37:25 72:2 133:7 142:5 164:3 167:4 <b>foundation</b> 85:21 87:21 192:21 195:4 <b>fourth</b> 155:7,11 156:9 157:9,13 158:10 160:10,12 <b>Fox</b> 34:2,15 36:2 <b>frames</b> 132:16,24 <b>Friday</b> 144:7 <b>friend</b> 28:1 <b>front</b> 5:14 76:25 93:24 144:2 <b>FT</b> 83:16 <b>full</b> 29:6 87:19 108:4 128:8 176:15 <b>full-time</b> 25:23 <hr/> <b>G</b> <hr/> <b>garage</b> 29:3,10, 12 57:18 85:17 90:1,4,5,12,13,15 115:16 118:10,15, 16,17,18,19,20,21 119:17,18,23 121:25 122:1,8 127:13,15,16 129:19,20 130:9,11 131:25 132:3 136:2, 22 153:23 156:3 157:11 158:14,21 161:10,14 167:7,17, 22 168:1 170:3 182:17,19 <b>gave</b> 9:13,18 27:18 30:17 80:17 95:10 105:7 141:20, 23 142:15 147:12 185:3 192:5 <b>gears</b> 37:21 <b>general</b> 13:15 97:21 136:12,14 142:25 158:10,11	<b>generally</b> 12:14 13:5 29:1 <b>generations</b> 115:17 <b>gestures</b> 6:10 <b>give</b> 5:20 6:13 17:7 35:21 49:14 58:20,22 59:2 69:13 79:18 80:13,16 81:1 105:18 126:24 128:19,21,24 132:18 147:6 <b>giving</b> 7:6 143:5 <b>good</b> 68:12 74:16 128:13 <b>Googled</b> 15:17 <b>Gotcha</b> 25:12 <b>grade</b> 181:1 <b>graduate</b> 23:24 <b>Grand</b> 23:9,14 34:5,6 35:11,15 36:1,3,25 43:16 179:13,14 <b>grandkids</b> 25:20,22,25 26:11 29:10 42:19 166:16 <b>great</b> 5:11 72:4 169:8,13 <b>grow</b> 65:20 <b>guarantee</b> 69:14 <b>guess</b> 13:23 39:15 72:21 86:7 114:23 142:8 171:25 187:19 <b>guessing</b> 61:10 83:10 119:8 <b>guesstimate</b> 128:21,24 132:20 <b>guy</b> 77:2 <b>guys</b> 34:16	<hr/> <b>H</b> <hr/> <b>half</b> 29:7,17 <b>hallway</b> 163:12 182:22 <b>Hampton</b> 11:17 <b>hand</b> 11:1 59:7 60:4 62:5,25 64:20 66:16 70:13 77:10 79:24 87:1 95:20 124:8 172:6 174:10 <b>handing</b> 143:20 <b>handled</b> 71:8 <b>handwriting</b> 60:11,15,17,23 61:12,13 63:5,8 64:23,25 66:19,23 70:15,16 72:17 76:16,17,19,20,21 80:3,5 87:6,9,15,22 88:4 94:11 111:1,3, 4,6,8 112:13 <b>handwritten</b> 60:23 75:13 94:10, 14 112:4 140:11 175:18 176:7 <b>hanging</b> 163:11 <b>happen</b> 43:15 46:5 161:5 <b>happened</b> 43:15 89:13 91:5 126:22 137:23 139:15,21, 24 156:25 160:3 166:25 <b>hard</b> 65:9 133:2 180:17 <b>harder</b> 123:10 <b>harm</b> 156:4 <b>he'll</b> 131:20 <b>head</b> 6:11,16 22:16 36:15 96:18 116:23 155:22 <b>heard</b> 33:17 36:5 67:22 73:5,12 81:7 152:23	<b>heart</b> 7:4 <b>heat</b> 29:20 194:4 <b>heated</b> 29:21 <b>heater</b> 52:21,24 56:10 57:6 118:12, 13 119:10,15 130:4, 6,11 136:10 137:5 153:20 158:8 162:7 167:5 <b>heaters</b> 160:24 <b>heavy</b> 131:18,22 160:25 <b>held</b> 140:20 <b>helped</b> 7:17 96:20 155:7 <b>helping</b> 61:19 <b>hey</b> 17:7 38:16 105:9 <b>high</b> 23:25 24:4 72:7 118:23 122:1 <b>higher</b> 107:19 <b>highest</b> 24:20 <b>hire</b> 43:5 45:6 <b>hired</b> 41:5 106:1 <b>hiring</b> 25:18 <b>history</b> 132:8 <b>hold</b> 147:10 <b>holds</b> 139:8 <b>home</b> 18:18 26:18 27:6 28:2 30:2,9 32:2,4,9,19 33:9,12 34:1,6,16,19,23 35:11 38:1,4 39:7,9, 10,21,25 40:4 41:3, 6,11,22 42:9,23 43:2,16,18 47:14, 15,19,21 48:3,6,19, 22 49:18 50:2,7,14, 23 51:4,17 52:7,18 54:14,17 55:10,15 56:1,15 57:17,20,25 59:14,21 60:8 62:20 63:24 64:7,17 66:12 67:4,10,14 68:6 69:25 70:10 72:3 73:18,25 74:14,23 77:13,24 79:5,13 80:21 82:5 83:18 84:11,25 85:9,13,21 86:19,22 88:22 89:12 94:5,21,25 95:8,12 98:3,5,13, 14,17,20,23,24 99:1,6,9,20,25 100:5,7,8 101:4,11, 14,24 102:3,15 103:9 104:3,12,22 105:5 106:1,7,11,13 107:3,5,17 110:4,13 113:9 115:13 117:2 118:2,5,8 119:24,25 120:1,16,22 121:3, 7,18,23 122:13,23 123:15,18 124:9,14 127:9 129:2,6,11 130:6 131:5,10,11 134:8,24 135:1,12 137:18 138:3 150:11,15 151:2,21 153:4,15 155:11,13, 24 157:6,14,18 159:3,10 160:18 163:2 165:23 166:7 168:13 169:18 173:21 176:20 179:20 181:19 183:12,19,20,21,23 184:6,10,18,24 185:1,6,10,15 186:5,10 187:1,13 188:22 190:19,21 191:4,7,16,17,22,25 192:11,23,24 193:2, 24 194:7,18 197:2 <b>homeowner</b> 185:2 <b>homeowners</b> 50:1 77:13 82:2 95:15 99:6,16,18,25 100:22 169:21,23 170:14 <b>homes</b> 33:20,22 43:8,11 44:2 69:1 187:22 188:14 <b>hoping</b> 151:9 <b>horizontal</b> 136:23
---	---	--	---



MICHAEL MCMAHON

November 17, 2016

Index: hot..kind

<p><b>hot</b> 31:24 32:1 48:9,11,19 52:21,24 55:6 56:9 57:6 84:17,21,25 85:2 118:12,13 119:14, 16 130:11 136:10 137:5,6 150:17 160:24 162:7 167:5 193:24 194:2,15</p> <p><b>hour</b> 51:6 53:17</p> <p><b>hours</b> 121:15 122:16 131:20 155:23</p> <p><b>house</b> 12:19,21 14:4 16:13 23:7 25:21 26:6,25 27:8, 9,20,23 28:1,6,9,11, 19,21,22,24 29:2,20 30:13 31:10,13 32:16 34:10 35:18, 22 36:4,13,25 37:13,17 38:5,8,12, 14,16,21 40:10,21 41:13,16,18 42:5,16 43:14,21,24 44:8, 14,17,20,24 45:9, 12,16,21 47:22 48:1,10,11 51:23 52:23 53:21 54:4, 12,23 55:22 56:8 57:8 66:1,5 67:8,25 68:10,23,24 77:3 85:4,6,12 90:18 92:5 98:18 99:21,23 100:11 113:3,6 118:19 135:14 137:21 138:16 141:2,5 162:10,12, 13 170:16 171:23 173:13,17,24 174:18 182:10 186:7,17 187:15 192:4 196:23</p> <p><b>hung</b> 148:8</p> <p><b>hypothetically</b> 192:6</p> <hr/> <p><b>I</b></p> <hr/> <p><b>idea</b> 116:5</p>	<p><b>identify</b> 160:7</p> <p><b>immediately</b> 48:12 55:7 85:2 165:25 170:17,19 194:3</p> <p><b>important</b> 6:3 74:12 187:13 191:5, 16,19</p> <p><b>inch</b> 159:16</p> <p><b>inches</b> 126:2,3,5 133:10</p> <p><b>incident</b> 118:11</p> <p><b>included</b> 37:1</p> <p><b>includes</b> 73:21</p> <p><b>including</b> 39:2 115:17 116:9</p> <p><b>inconvenience</b> 114:15 116:11</p> <p><b>inconvenience</b> <b>s</b> 115:1</p> <p><b>incorrect</b> 96:9</p> <p><b>incurred</b> 117:3</p> <p><b>indicating</b> 149:7</p> <p><b>individual</b> 98:6</p> <p><b>information</b> 7:17,18 8:12 9:20 15:23 21:6,11 22:2, 4 26:22 27:11,12,18 28:14,16 29:24 30:3,5,15 31:4,22 44:19 45:13 48:5 50:23 52:21 53:20, 24 54:5,6,10 59:13 60:7 61:3 71:8 75:22 78:23 80:18, 21,25 81:3,4 82:10, 16 83:1,2,17,23 92:7 93:13 94:9,10, 14 96:13,20 97:7,23 100:1 101:14,20 125:23 134:10,17 140:9,12 141:20,22 143:2 145:19 146:17 147:6,13 148:13 156:23 171:19 184:20 192:22 193:15</p>	<p>196:9</p> <p><b>informed</b> 188:6</p> <p><b>initial</b> 189:21</p> <p><b>Inn</b> 11:17</p> <p><b>input</b> 54:19 184:9, 12</p> <p><b>insert</b> 191:12 192:15</p> <p><b>inside</b> 57:19 85:4 119:18 161:14 164:20 167:2</p> <p><b>inspected</b> 38:12</p> <p><b>inspection</b> 38:11 39:20,24 40:4,9 45:4 90:16 191:11</p> <p><b>inspector</b> 45:6 191:22</p> <p><b>inspectors</b> 22:2 40:24</p> <p><b>install</b> 41:5 42:1 57:8 68:15 73:25 74:14 192:24</p> <p><b>installation</b> 29:25 31:17 39:3</p> <p><b>installed</b> 30:8 31:11,25 39:1,21 40:20 41:10,22 42:5 51:17 52:18 54:12 64:3 74:12 85:4 139:3 183:21,23 184:3,5,7,18 187:22 188:15,22 190:20 192:11 196:23</p> <p><b>installing</b> 68:25</p> <p><b>instance</b> 14:7 37:10 38:15 42:23 43:1,15 73:21 102:8,10,25 105:3, 19 154:9 197:14</p> <p><b>instances</b> 91:16</p> <p><b>instruct</b> 117:19</p> <p><b>insulated</b> 85:5,6</p> <p><b>insulation</b> 34:12 85:8 118:20 122:19</p>	<p>127:7</p> <p><b>insurance</b> 59:10 71:9 77:12,13 79:20 95:15 97:16 98:24 99:1,6,8,16 100:7, 19,21,22,24 101:10 104:4 105:8,10 106:4,8,11,12 108:1 109:24 110:3,15,18 113:11 168:17 169:24 170:14 171:8 181:10</p> <p><b>insured</b> 175:12</p> <p><b>intended</b> 73:10</p> <p><b>interested</b> 8:25 9:6</p> <p><b>internet</b> 15:15 189:10,21 190:4</p> <p><b>interpretation</b> 82:12 86:13</p> <p><b>interrogatories</b> 96:4,10 97:14</p> <p><b>interrogatory</b> 9:17 96:6,12 154:14</p> <p><b>interrupted</b> 159:22</p> <p><b>invoice</b> 63:14,18 64:5 65:4,5 66:10 70:2 105:3 180:6</p> <p><b>invoices</b> 58:14 79:11 94:19,20</p> <p><b>involved</b> 14:10 46:4 61:16 165:10</p> <p><b>issue</b> 7:4 14:8 43:2,9 57:5 193:10</p> <p><b>issued</b> 187:20</p> <p><b>issues</b> 14:3 35:16 38:17 77:7 93:20 99:11 101:21</p> <p><b>Item</b> 146:20</p> <p><b>itemize</b> 115:23</p> <p><b>itemized</b> 115:24</p> <p><b>items</b> 21:15,19 99:22 115:23 116:6, 10 122:14 127:17,</p>	<p>19,20,25 128:2,3,9, 12 132:7,9,11,13,19 153:3,10 160:18 161:9 184:6</p> <hr/> <p><b>J</b></p> <hr/> <p><b>Jacobs</b> 34:2,15 36:2</p> <p><b>January</b> 18:24 19:1,6 28:8,10 42:10 48:4 50:6 129:14 130:13 131:8 135:2 136:5, 25 153:16</p> <p><b>Jarrold</b> 143:25 144:6,22</p> <p><b>job</b> 25:16,18,23 72:4 122:23</p> <p><b>Joe</b> 15:6,8,9,13 157:24,25</p> <p><b>Joe's</b> 14:21,23,24</p> <p><b>join</b> 24:5</p> <p><b>joined</b> 24:8</p> <p><b>Joseph</b> 14:24 15:7,13</p> <p><b>judge</b> 5:14</p> <p><b>July</b> 31:18 178:17</p> <p><b>jump</b> 38:23 158:2</p> <p><b>June</b> 64:5</p> <p><b>jury</b> 5:14</p> <hr/> <p><b>K</b></p> <hr/> <p><b>Kate</b> 146:2</p> <p><b>keeping</b> 160:13</p> <p><b>Kenney</b> 15:9</p> <p><b>kids</b> 26:9 42:18</p> <p><b>kind</b> 7:18,20 12:24 15:20 26:14 33:2,8, 21 37:6 38:21 39:20 43:5 65:17 67:9,24 68:6 73:18 111:21</p>
---	---	---	---	---

MICHAEL MCMAHON

November 17, 2016

Index: kitchen..man

<p>123:25 124:25 125:6 126:19 129:3 131:24 133:9 134:9 146:23 147:14 165:20 177:7 181:24 186:16 187:2,12</p> <p><b>kitchen</b> 29:8 181:22 182:1</p> <p><b>knew</b> 36:12 40:15, 16 74:4,18 170:18 186:23 188:5,19 190:2</p> <p><b>knick-knacks</b> 128:10,11 132:8</p> <p><b>knowing</b> 98:15 141:4</p> <p><b>knowledge</b> 27:19 42:21 55:3 58:1 68:18,19 85:21 91:4 99:20 125:16 188:12</p> <p><b>Kyle</b> 6:2 7:24,25 75:8 169:13</p> <p><b>Kyle's</b> 15:3</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>L-O-U</b> 26:5</p> <p><b>label</b> 60:5 70:15 76:15</p> <p><b>labeled</b> 64:22 66:18</p> <p><b>labels</b> 63:1</p> <p><b>lack</b> 122:3 192:21 195:4</p> <p><b>ladder</b> 122:18</p> <p><b>lady</b> 146:5</p> <p><b>Lake</b> 98:8</p> <p><b>large</b> 29:3 72:1 101:1 167:11 174:11</p> <p><b>lasting</b> 36:11</p> <p><b>laundry</b> 182:13</p>	<p><b>law</b> 15:10,12 97:4</p> <p><b>lawsuit</b> 9:23 12:15 13:20 14:11, 16 16:16,24 17:7 18:2,7,13 21:2 45:18,24 46:2 59:1 60:7 61:17 63:11 75:5 96:1,10,11 103:4,25 108:12 109:2 114:6 116:13 117:4 150:9 174:15 181:11</p> <p><b>lawyer's</b> 88:15</p> <p><b>lawyers</b> 14:17,19 18:5 61:10 89:18 91:1 149:11,20</p> <p><b>lead</b> 35:9 38:17</p> <p><b>leaded</b> 43:19</p> <p><b>leak</b> 22:13 33:10 43:9,13 56:9,10,11, 12,14 57:25 58:1,18 59:14,21 60:8 62:20 63:24 64:6,17 66:12 68:11 69:11 70:9 74:13,23 77:14 92:4 102:10 104:18,19 118:4,8,21 119:5,20 120:2,10,14,22 121:17,20,21,22 122:17,19,21 126:2, 23 127:8,19 128:16, 19 129:2,6,8,11,25 130:3,14,20,25 131:7,8,18,22,23,24 132:2,11 133:5,7,9 135:1,5,7,10 136:12,17,25 137:10,17 138:7,15 139:17 140:2,3,4, 14,19 141:12,15 146:18 153:2,12,15, 21 154:1 155:7,10, 11,19 156:3,6,9,14, 20,23 157:9,13,19 158:2,10,13,17,24 159:2,13,18 160:4, 10,12,17 161:1,3, 17,18,24 162:1,17, 19 163:1,5,8,9,15, 22 164:3,6,7,19,20, 22,24 165:1,20 166:8,9,19 167:1,4</p>	<p>169:17 185:18 186:15,16,21,22</p> <p><b>leaking</b> 120:24 121:14,24 124:22 136:18,21 162:8 163:2,13,20 164:16 167:4 170:1,2</p> <p><b>leaks</b> 12:19 14:13 18:18 35:13,16 45:20 57:16,18,19, 24 63:24 64:1 65:21 68:22 75:3 77:2,15, 23,24 78:1,6,9,10, 13,17,21 80:19 86:18,22 93:2 94:5 98:6 101:3 102:14 103:1 107:18 113:5, 8 115:13 118:2 124:11 127:5 137:6 142:7 150:11,15,17 151:1 156:5,25 163:25 166:13 168:13 169:15,23 185:6,15 186:5,11 189:11 194:17 195:1,7,12</p> <p><b>learn</b> 33:8</p> <p><b>learned</b> 31:19,21 37:12,24 101:4</p> <p><b>leave</b> 65:24 116:24 127:15 153:8</p> <p><b>left</b> 65:25 69:9 123:1</p> <p><b>left-hand</b> 60:12 87:16 88:5,9,14 145:10</p> <p><b>legal</b> 114:12,20 116:15 187:24</p> <p><b>length</b> 136:11</p> <p><b>letter</b> 16:16 176:13</p> <p><b>letters</b> 82:15 146:25</p> <p><b>level</b> 85:18 119:18 167:17,22 168:7</p> <p><b>levels</b> 85:24</p>	<p><b>license</b> 41:15</p> <p><b>licensed</b> 41:5,9, 18 42:6 86:10</p> <p><b>life</b> 7:6 23:17</p> <p><b>lines</b> 47:2 85:3,9 167:13</p> <p><b>list</b> 9:24 14:25 64:11 74:24 75:3,4, 19 93:1,3 112:21</p> <p><b>listed</b> 11:23 12:2 118:11 155:1 158:2 178:11</p> <p><b>literate</b> 15:21 143:14</p> <p><b>live</b> 23:6,11,13 26:6 43:8 163:8</p> <p><b>lived</b> 23:3,9,14,16 27:24 28:11 34:2 35:18 36:19 42:12, 15 43:17 185:9,14</p> <p><b>lives</b> 45:16</p> <p><b>living</b> 29:7 181:24 186:7</p> <p><b>LLC</b> 67:1 155:3</p> <p><b>local</b> 32:5,12,14</p> <p><b>located</b> 30:2 57:18 182:6</p> <p><b>location</b> 28:24 137:22 141:11</p> <p><b>long</b> 23:3,11,16 36:11 49:11 58:3 66:9 69:2,3,19 139:9 163:20 166:18</p> <p><b>longer</b> 113:8</p> <p><b>looked</b> 8:16 9:5,9 14:14 18:7 19:12 41:1 48:1 90:16 105:10 106:2 108:21 140:10 141:4 142:5 145:24 170:22 177:20 180:6 190:9 195:8</p> <p><b>loss</b> 22:8 59:17</p>	<p><b>lot</b> 43:11 127:14 162:12,13</p> <p><b>Lou</b> 26:5 154:21</p> <p><b>loud</b> 46:15</p> <p><b>lowest</b> 85:18 167:16,22 168:7</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>M-18340</b> 86:5</p> <p><b>machine</b> 196:13, 18</p> <p><b>made</b> 12:15,22,24 13:6,11 37:5 40:17, 19 47:23 48:14 61:16 93:1 101:15, 20,23,24 119:7 150:6 168:3 173:13 191:5</p> <p><b>mail</b> 19:20 90:12 142:24 179:5</p> <p><b>mailed</b> 90:9 140:23,24 143:10 148:6,7,15,18,20</p> <p><b>mailing</b> 87:10 143:4 148:15,24 149:2</p> <p><b>main</b> 142:6 150:20 167:8</p> <p><b>maintenance</b> 57:11</p> <p><b>major</b> 163:15</p> <p><b>make</b> 6:17,24 39:17 45:7 46:8 92:23 95:5 117:8 123:17 132:20 163:16 166:11 170:5</p> <p><b>makes</b> 13:10</p> <p><b>making</b> 49:24 108:1 109:17 117:18</p> <p><b>man</b> 16:5 27:7 142:14,21,22 146:9 150:14 168:2</p>
--	---	---	---	---

MICHAEL MCMAHON

November 17, 2016  
Index: man's..notations

<b>man's</b> 30:17 143:25  <b>manu</b> 81:18  <b>manual</b> 49:15  <b>manufactured</b> 47:14 73:5 81:22 82:7 183:14 186:19  <b>manufacturer</b> 135:11 193:7  <b>manufacturers</b> 13:11  <b>March</b> 59:17 153:16 154:2 157:14 158:3,24 162:2,6,22,23 164:14 165:19,20 195:11  <b>mark</b> 81:10,12 87:2 174:11  <b>marked</b> 10:25 11:2 19:24 20:1 58:21 59:6 60:5 62:24 63:1 64:19,21 66:15,17 70:12,14 76:12,14 79:23,25 86:25 92:17 93:24 95:21 143:16,20 174:9  <b>marketed</b> 183:15  <b>marketing</b> 189:12  <b>married</b> 26:2  <b>master</b> 24:24  <b>match</b> 112:7  <b>material</b> 12:24 13:5 37:7 47:22 67:9 68:7 69:9 127:21 146:21  <b>materials</b> 34:22 49:14 132:3 134:9 189:11,12 190:16  <b>math</b> 36:15 103:11,15 180:21 181:1	<b>matter</b> 93:4  <b>Maximum</b> 83:6  <b>Mcmahaon's</b> 30:2  <b>Mcmahon</b> 5:2,7, 9,11 11:10,13 17:5 20:13 22:10,21 53:11 59:8 60:5 63:2 64:22 66:18 70:15 75:14 76:9,15 80:1 87:3 92:19,25 93:23 145:10 151:20 152:24 154:22 171:7 174:13 175:10 189:6 191:2 196:4  <b>Mcmahon's</b> 26:18 38:25 41:6 57:17,20 93:8 96:2 183:12  <b>means</b> 17:14,15 29:21 83:23 84:9 166:15  <b>meant</b> 52:8  <b>measure</b> 119:10  <b>Medders'</b> 183:12,19  <b>medications</b> 7:5  <b>members</b> 10:11 17:21  <b>memorabilia</b> 115:18  <b>memory</b> 7:20 8:13  <b>Memphis</b> 98:9  <b>mentioned</b> 7:3 27:15 36:12 40:8 57:24 112:21 113:17 116:10 128:14 135:13 157:8  <b>met</b> 8:16  <b>Michael</b> 5:2,9 11:10,13 17:5 20:12 96:2 171:7 175:10	<b>middle</b> 59:17,18 111:18,20,21  <b>midway</b> 146:20  <b>Mike</b> 5:7 8:14,15 145:10 175:10  <b>military</b> 23:18,21 24:6,8,12,15,19 25:13,17  <b>mind</b> 18:15 130:12  <b>mine</b> 60:16,25 112:16 181:3  <b>Minus</b> 108:7  <b>miscellaneous</b> 132:9  <b>mischaracteriz ing</b> 191:6  <b>misleading</b> 41:24  <b>missed</b> 166:10  <b>missing</b> 87:17  <b>misunderstoo d</b> 42:2  <b>mit</b> 177:23  <b>Mitchell</b> 71:4,7, 16,22 73:17 74:7,20 172:25  <b>mold</b> 65:20  <b>moment</b> 33:18  <b>monetary</b> 132:18  <b>monetize</b> 114:17  <b>money</b> 17:4 109:8 110:2 114:18 123:1,2  <b>months</b> 78:14  <b>morning</b> 7:10,11, 13 21:5,9 163:21  <b>Motion</b> 65:8  <b>mouth</b> 71:23 74:15	<b>move</b> 46:8 51:20, 22 93:20  <b>moved</b> 23:6 28:6, 10,12 36:18 39:16 41:25 42:9 48:3 49:1 50:6 121:19,25 122:10 157:10  <b>movie</b> 167:10,19, 23 168:4  <b>moving</b> 23:20 34:3  <b>mud</b> 119:18 130:6 167:9,16,24 168:2 182:12  <b>multiple</b> 89:9 106:25 107:12 190:5,7,9  <b>municipal</b> 54:7  <b>municipality</b> 32:8  <b>municipally</b> 32:5  <hr/> <b>N</b> <hr/> <b>named</b> 17:19 77:3  <b>names</b> 11:20 12:2 14:17,19 15:3 32:10 155:5 189:25  <b>Nature</b> 46:13  <b>Navy</b> 24:10,11  <b>necessarily</b> 93:18 107:11 133:1  <b>needed</b> 7:18 8:11 57:4,8 90:5 99:24 113:8 195:8  <b>negative</b> 38:13  <b>neighbor</b> 10:15 14:7  <b>net</b> 177:15  <b>NIBCO</b> 12:7,10, 11,15,22,23 13:10, 16 14:3,14 21:20,25 22:1,10 32:25 33:17	37:25 39:1,2,3,6,22 40:10,15,16 47:13 67:19 81:7,21,25 82:1,4,8 88:7,12 89:3 103:4,24 109:2 116:13 125:3,4,5,20 126:14 129:8 135:3, 4,11,18 141:16,19, 24 142:2,5 143:7,18 144:23 145:16 146:2,15 147:13,19, 25 148:3,8,18 149:7,12,13,15,23 150:5,10,14,23 151:20 152:8,9,13, 23 157:15 159:23 162:3 166:20 173:16,19,23 174:14 175:9,23 176:14 181:11 183:11,15,22 184:6, 10,17 185:18,19 186:3,4,9 187:20 188:10,21,22 189:10,11,14,18 190:4,15,16,20 192:5,10,19 193:9, 16,19 196:5,9,23 197:4,13  <b>NIBCO's</b> 33:16 57:16 93:17 96:3  <b>NIBCO-COLE</b> 143:22 174:12 179:18 181:15  <b>nod</b> 6:11,15  <b>nods</b> 96:18  <b>noise</b> 49:24  <b>noisy</b> 49:25 52:4, 10 53:3  <b>non-freeze</b> 85:4  <b>normal</b> 10:3 29:18  <b>north</b> 153:19  <b>northwest</b> 129:19 136:2  <b>notation</b> 130:1,2  <b>notations</b> 61:15, 21 140:25
--	--	---	--	---

MICHAEL MCMAHON

November 17, 2016

Index: note..PEX

<p><b>note</b> 63:21 110:23, 25 162:9,11</p> <p><b>notes</b> 75:13 109:17 140:11 147:7,10 185:11 189:1</p> <p><b>notice</b> 11:10 77:6, 17</p> <p><b>noticed</b> 117:12 142:14 159:15 163:6,8</p> <p><b>noticing</b> 190:12</p> <p><b>notified</b> 59:23</p> <p><b>November</b> 11:16 97:2</p> <p><b>NSF-UP</b> 82:19</p> <p><b>number</b> 19:22 30:17,18,22 35:23 53:23 60:20 80:1 83:13 86:8 95:17 98:15 106:23 111:2, 12,19 112:3,14 115:8 142:6 143:5 171:24 176:1,3,7 185:3</p> <p><b>numbered</b> 97:14 174:12</p> <p><b>numbers</b> 82:15 87:3 109:19,22 112:6 143:22 146:25 175:19 177:4,5,8</p> <p><b>numerous</b> 115:18</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>oath</b> 5:13,20 53:13 76:10 92:20 189:7</p> <p><b>object</b> 87:20 117:16 151:22,25 192:20 194:11 195:3,14</p> <p><b>objected</b> 195:17</p> <p><b>objection</b> 97:21 114:11,19,22</p>	<p>116:14 117:18 187:3,23 188:4 191:13 192:15 195:23 196:16</p> <p><b>objections</b> 6:2 96:2,15 117:13</p> <p><b>observe</b> 120:4 130:19</p> <p><b>observed</b> 118:25 120:2,14 130:14 131:7 137:10,16 153:15 154:1 158:23 162:19</p> <p><b>observing</b> 159:1 165:19 168:12</p> <p><b>occasion</b> 19:12 55:11 66:2 102:23</p> <p><b>occasional</b> 43:12</p> <p><b>occasionally</b> 42:18 55:7</p> <p><b>occasions</b> 190:5,15</p> <p><b>occur</b> 58:1 118:8</p> <p><b>occurred</b> 57:17, 25 59:14 64:6 66:12 78:6,13 90:17 92:4 93:2 94:5 118:21,24 119:6,20 135:1 153:2 155:11 156:24 159:8 162:1 194:18</p> <p><b>occurring</b> 7:12</p> <p><b>October</b> 88:16 91:12,20</p> <p><b>offended</b> 6:15</p> <p><b>offered</b> 79:18</p> <p><b>officer</b> 25:4</p> <p><b>one-fourth</b> 168:1</p> <p><b>one-year</b> 69:17</p> <p><b>online</b> 146:16</p> <p><b>open</b> 65:19</p>	<p><b>opportunity</b> 31:1 53:15</p> <p><b>orally</b> 69:23</p> <p><b>orange</b> 125:2</p> <p><b>orangey</b> 125:3</p> <p><b>order</b> 93:7 113:7</p> <p><b>original</b> 41:22 126:14 184:23</p> <p><b>originally</b> 54:23</p> <p><b>Orleans</b> 23:19</p> <p><b>out-of-pocket</b> 99:14 107:16 108:12 114:8 115:9, 12 116:8</p> <p><b>outcome</b> 16:24 17:3</p> <p><b>outline</b> 58:18</p> <p><b>outlined</b> 114:6</p> <p><b>outlines</b> 18:13</p> <p><b>owned</b> 33:20 50:7</p> <p><b>owner</b> 16:10 26:24 27:2,6,7,19, 24 30:6,7 31:22 44:6 48:5</p> <p><b>owner's</b> 27:3 49:15</p> <p><b>owners</b> 188:12</p> <p><b>owns</b> 41:14</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>p.m.</b> 197:20</p> <p><b>packet</b> 174:11</p> <p><b>pages</b> 59:1 177:5</p> <p><b>paid</b> 50:14,23 95:1 99:7 102:2,13,17 103:6,9 104:24 106:3,4 110:3 111:10 123:1,2,13, 14,24 124:10 134:19,23 137:24 138:3 157:1,5,6 159:8 176:16,19</p>	<p>179:19 181:7</p> <p><b>paint</b> 163:12</p> <p><b>paired</b> 44:16</p> <p><b>paper</b> 74:25 76:15 80:6,14 81:5,6 82:11 84:13 86:17 92:8 140:13 185:13</p> <p><b>paperwork</b> 58:5,8 190:1</p> <p><b>paragraph</b> 20:12,15,16,21 21:22 26:17 28:15 29:23 31:16 38:23, 24 40:7 41:4,21 42:9 46:10,11,14,23 57:15,24 64:8 78:16 97:20 119:4 176:15 183:8,9</p> <p><b>paragraphs</b> 20:18,21 21:2,8 22:18</p> <p><b>parents</b> 25:25</p> <p><b>part</b> 8:5 9:23 13:21 16:15 18:2 24:12 25:3 31:25 32:17 34:21 43:22 44:5,12 45:1 46:1 49:10 52:25 60:6 63:11 69:22 76:18 93:3 95:6 103:4 104:9 108:1,12 110:10 150:9 156:17 160:11 161:2,9,17 167:6 176:7,9,11</p> <p><b>parts</b> 34:23</p> <p><b>pass</b> 71:25</p> <p><b>past</b> 10:17</p> <p><b>patched</b> 64:2</p> <p><b>pattern</b> 77:5 135:5</p> <p><b>pay</b> 103:2 104:8, 15 105:5,10,12,13 106:24 107:10,16 108:5,8 109:11,12, 13,14 124:5 151:7 152:6 166:1,11 172:11,16 173:17</p>	<p><b>payee</b> 178:15</p> <p><b>payees</b> 178:11</p> <p><b>paying</b> 166:6</p> <p><b>payment</b> 105:23 178:7</p> <p><b>payments</b> 101:20,23,25 178:10</p> <p><b>people</b> 12:1 13:21 14:3 18:10 40:25 47:25 61:4 109:13 171:17 177:25 188:6 189:19,24</p> <p><b>percent</b> 106:21 107:1,2,3,10 123:20</p> <p><b>period</b> 39:16 77:16 81:18 156:1</p> <p><b>permanent</b> 42:15,16</p> <p><b>person</b> 16:11 27:24 28:19 42:6 54:23 74:8 142:10, 20 147:3,12 150:13, 15 172:18 184:5</p> <p><b>personable</b> 115:16</p> <p><b>personal</b> 27:25 116:10 132:7,9 161:9</p> <p><b>personally</b> 12:5 14:2 116:19,20 117:3 152:23</p> <p><b>perspective</b> 93:17</p> <p><b>PEX</b> 13:1,2,9,10, 14,16,22 21:20,25 22:1 32:22,25 33:25 34:1,6,13 35:1,3,10 36:2,4,10 37:1,2,4, 13,25 38:1,3,16 39:2,3,6 42:2 46:21, 22 47:1,13 54:13 56:12,15 67:12,13 68:20,25 69:6 73:4, 21 74:4,5 122:22 125:20 138:12,14</p>
---	--	---	--	---



MICHAEL MCMAHON

November 17, 2016  
Index: phone..problems

<p>159:24 183:11,22 184:6,10,17 186:4 187:21 190:20 193:10,20 196:23</p> <p><b>phone</b> 19:22 53:22 142:18 143:4 146:6 150:5,12,13, 24 171:16,17 174:2</p> <p><b>photographs</b> 181:14</p> <p><b>photos</b> 183:1</p> <p><b>physically</b> 21:8</p> <p><b>pick</b> 33:13,14 127:13 172:18</p> <p><b>picked</b> 34:18</p> <p><b>picture</b> 44:25 46:18,23 132:24 181:21 182:2,11,15, 17,23</p> <p><b>pictures</b> 132:9, 16 168:14,15,18,20, 21,25 174:18 181:19 183:3,4</p> <p><b>piece</b> 33:15 74:25 76:14 80:13 81:4,5, 6 82:11 86:16 88:24 89:8,21 91:2,10 92:8 136:20 138:8, 23 139:2,3,9,18 140:6,13,18,20,22 141:1,5 142:24 148:15,18 149:3,9, 10 150:21 151:16, 18,20 156:17 159:19 160:5,8 185:13</p> <p><b>pieces</b> 88:20 89:13,23,24,25 90:6,14,15,21 91:19,23 160:9,13</p> <p><b>pilot</b> 25:1</p> <p><b>pipe</b> 33:15 81:4 82:24,25 83:2,6,18 88:7,13,19,22 89:5, 6,9,11,13,21 90:6, 15,25 91:2,5,16,19, 23 104:15 124:22 125:4,8 126:7,13,22</p>	<p>129:3 133:8,11,14, 16,19 134:14 136:11,18,20,22 138:14,23 139:2,4, 7,8,9,10,15,24 140:4,13,18,22 141:1,5,12,13 148:18 149:3 150:17 151:14,21 152:13 159:15 160:3,11,12,14 162:8 167:1 185:19, 25 186:4 187:21 193:16 196:5,6,10, 11</p> <p><b>pipes</b> 67:5 70:22 72:17 85:7 90:8 170:1,2</p> <p><b>pipng</b> 13:22 16:14 34:13 40:16 67:10 73:18,21 74:9,12 85:11,13,20 89:15,20 122:22 124:16 135:12,14 138:16 188:14</p> <p><b>place</b> 135:25 136:1,4 138:23 156:17 158:7</p> <p><b>plaintiff</b> 13:20 16:15 17:19 22:10 26:18 30:1 38:25 41:6 45:18,24 46:5 57:17,20 96:2 97:21</p> <p><b>plaintiff's</b> 93:11</p> <p><b>plaintiffs</b> 11:21 17:3 93:14</p> <p><b>plaintiffs'</b> 93:4,5</p> <p><b>plan</b> 186:7</p> <p><b>planned</b> 73:25</p> <p><b>plastic</b> 13:7 33:6 36:7 37:3,10 68:3 126:20 134:3 138:14</p> <p><b>plumber</b> 10:14, 17,18 14:13 15:23, 24 16:3 33:10,13,14 37:23 41:18 50:9,10 56:19,23,24 64:10 77:14 79:8 80:10</p>	<p>86:10,11 105:14,15 120:9,11,20,21 121:2,10,12,16 130:23,24 137:15 146:17 150:16 154:7,8 155:6,16,24 156:8,20 157:18 158:25 159:9,12,17 163:23 164:18 186:21 192:24 193:1,2 196:22,24</p> <p><b>plumbers</b> 49:18 50:22 52:20 77:15 89:21 102:2 105:25 109:14 120:7,19 159:6 160:16 165:8, 25</p> <p><b>plumbing</b> 12:19, 20,23 13:6 14:3 16:12 21:20 29:18 30:1,9 31:11,17,25 32:18,21,24 33:9,21 34:7 35:15 38:7,21 39:1,10 41:1,6,10, 14,22,25 42:1,5,22 43:2,9 47:2 48:1,5 50:12 54:12,13,17 64:1,4 66:22 67:1,3, 5,9 69:13 70:9 71:3, 25 72:9,14,16 74:4 77:2,7,23 79:3,11 80:7,11 81:14,21,24 82:5 86:8 89:12 98:25 99:2,5,9,11 100:16 101:5,21 104:3,6,11,14,15,17 105:4 106:7 107:18 109:16 112:23 113:9 115:13 118:5, 18 121:17 122:15, 16 124:11 126:23 127:4 129:3 131:2, 4,12 133:4 134:8, 19,22 137:19 138:6 140:3,12 141:23 147:10 153:15 155:2,9,14 156:10, 14,17,20 157:2 159:4,7 160:1 165:12 173:3,20 186:10,16 187:2,13, 14,17 188:6,13 189:18 191:4,8,17, 19,23 192:3,24</p>	<p><b>pocket</b> 65:2 71:11 108:6,8 110:24 116:22 181:7</p> <p><b>point</b> 9:14 21:2 91:6 135:17 144:24 157:21 170:4 186:14 193:6</p> <p><b>pointing</b> 158:7 162:14</p> <p><b>policies</b> 100:10, 12,15,18 101:9</p> <p><b>policy</b> 50:1 51:1,4 60:1 95:9,13,17 98:11,13,18 99:16, 17,20,25 100:4,8 102:6 104:4,13,22 106:20 111:1,2,11, 19,22 112:14 134:24 157:6</p> <p><b>popped</b> 15:18</p> <p><b>portion</b> 93:10 111:18 187:10 188:3 195:21</p> <p><b>position</b> 93:5</p> <p><b>positives</b> 36:10</p> <p><b>possession</b> 95:3</p> <p><b>possibly</b> 122:11</p> <p><b>pouring</b> 121:24</p> <p><b>Prairie</b> 23:9,14 34:5,6 35:11,16 36:1,3,25 43:16 179:14</p> <p><b>prematurely</b> 185:20 186:4 191:23 192:7 196:6 197:14</p> <p><b>premise</b> 65:24</p> <p><b>premises</b> 65:25</p> <p><b>preparation</b> 7:15 8:6 9:10,21</p> <p><b>prepare</b> 7:9 94:24</p>	<p><b>preparing</b> 94:13</p> <p><b>pressure</b> 83:6</p> <p><b>pretty</b> 117:11 119:12,13 160:25 164:15</p> <p><b>prevent</b> 7:6</p> <p><b>preventative</b> 57:11</p> <p><b>previous</b> 26:24 27:2,3,5,7 30:6,7 31:22 33:20 36:25 38:5,16 43:8 44:6 48:5 52:1 61:11 77:22 136:12,17 137:2 156:5,25 162:23 180:2</p> <p><b>previously</b> 11:2 39:4 40:7 47:16,19 74:11 84:24 95:10 123:14 139:3 140:11 144:14 157:8 169:22 170:22 185:4 191:13 192:16,17</p> <p><b>primary</b> 42:13</p> <p><b>print</b> 193:21</p> <p><b>printed</b> 178:18 193:16</p> <p><b>printout</b> 170:24</p> <p><b>prior</b> 34:3 78:7 97:6 121:1</p> <p><b>privilege</b> 93:6,7, 14</p> <p><b>privileged</b> 8:21 9:2</p> <p><b>privileges</b> 93:10</p> <p><b>problem</b> 14:14 15:1,22 16:1 33:12 109:5 133:11 142:7 150:18 151:10 152:11 185:25 188:5</p> <p><b>problematic</b> 114:15 115:1</p> <p><b>problems</b> 12:18 13:22 14:1,15 35:8</p>
--	---	---	---	---

MICHAEL MCMAHON

November 17, 2016  
Index: procedure..recommended

<p>36:12 44:14 68:12, 16 99:21 126:1 148:9 149:15 151:11 152:6,8 186:12 187:16 189:18,19,24</p> <p><b>procedure</b> 125:14</p> <p><b>proceeded</b> 157:2</p> <p><b>proceeds</b> 97:16</p> <p><b>process</b> 32:18 34:21 38:11 44:5 134:18 137:23 156:24 159:8 186:25</p> <p><b>produced</b> 9:11 58:15,25 60:6 75:4 93:21 94:9 95:6 108:20 145:6 174:14</p> <p><b>product</b> 14:1 36:8 37:3 68:12,15 74:5,18 93:7 145:7 147:14 159:21,23, 25 160:1 175:24 197:13</p> <p><b>production</b> 93:12,17</p> <p><b>products</b> 74:14 183:11,23 184:6,10, 17 190:20 192:7,11, 19 193:1,10,20</p> <p><b>professional</b> 41:5,9</p> <p><b>professionalis m</b> 72:5</p> <p><b>promise</b> 16:23</p> <p><b>promised</b> 17:11</p> <p><b>pronounce</b> 80:9</p> <p><b>properly</b> 191:17</p> <p><b>property</b> 59:11 63:23 95:11 99:15 106:1,6 107:17 110:4 128:18 157:10 161:9 170:15 171:12</p>	<p>173:3,6 176:20 179:20 180:11</p> <p><b>provide</b> 30:18 59:13 93:8 95:4 96:20 101:15 107:25 193:9,20</p> <p><b>provided</b> 9:20 22:10 48:19 76:5 93:3 97:7,23 145:14 184:20 188:10 192:6 197:15</p> <p><b>PSI</b> 82:21,22 83:4, 8</p> <p><b>ptmac04@ sbcglobal.net</b> 144:12</p> <p><b>published</b> 190:16</p> <p><b>pull</b> 175:21</p> <p><b>pulled</b> 126:23</p> <p><b>pulling</b> 182:17</p> <p><b>pump</b> 49:24,25 50:3 51:19 52:8,10, 13,23,25 55:2,9 84:24</p> <p><b>pumped</b> 84:17</p> <p><b>purchase</b> 44:7 45:4 184:10 191:6, 25</p> <p><b>purchased</b> 28:2,9 40:3,5 81:24 82:5 183:24 184:1 187:1 188:7 190:21 191:15</p> <p><b>purchases</b> 193:1</p> <p><b>purchasing</b> 32:17 38:12 187:14</p> <p><b>purpose</b> 105:17</p> <p><b>purposes</b> 28:14</p> <p><b>pursuant</b> 73:25</p> <p><b>put</b> 100:22 110:23 126:11,13 132:22 133:20,25 138:22 139:10 153:1</p>	<p>156:17 161:19,21 196:5,10</p> <p><b>putting</b> 134:9</p> <hr/> <p><b>Q</b></p> <hr/> <p><b>question</b> 6:16,25 7:1 10:16 18:9 39:23 42:2 81:10,12 92:19 97:15,17 105:18 117:17,18, 20 123:6 135:7,8 147:11 151:6 152:18 160:11 174:21 179:4 187:7, 25 195:20 196:5,7, 21</p> <p><b>questions</b> 6:1,5, 20,21 7:23 8:11 9:2, 19,24 10:2 13:14 20:19 46:12 53:17 59:4 94:2 96:11,13, 20 174:17 189:9 190:24 197:10,19</p> <p><b>quick</b> 53:8 180:21 189:1</p> <p><b>quickly</b> 164:17</p> <p><b>quiet</b> 117:12</p> <hr/> <p><b>R</b></p> <hr/> <p><b>Rachel</b> 8:15 117:7,16 169:2</p> <p><b>rack</b> 148:5</p> <p><b>radar</b> 25:6</p> <p><b>radiant</b> 29:20</p> <p><b>Randy</b> 54:1</p> <p><b>range</b> 107:23</p> <p><b>rank</b> 24:20</p> <p><b>re-ask</b> 9:22</p> <p><b>re-read</b> 195:19</p> <p><b>reach</b> 183:12</p> <p><b>read</b> 5:12 21:10, 11,16 46:11,15,16</p>	<p>53:24 61:3 65:5,9 81:13 82:20,21 83:14 91:12 97:22 113:24 129:17 130:2 135:24 147:6 158:4 162:5 180:17 183:9 187:8,10 188:1,3 195:21</p> <p><b>reading</b> 10:6 16:21 21:4,12 72:8 155:5</p> <p><b>ready</b> 174:16</p> <p><b>real</b> 22:14,15 44:12,23 45:2,3,11, 14 143:14 155:20 190:2</p> <p><b>realized</b> 71:10</p> <p><b>reason</b> 18:19 52:3 57:1 150:20 151:11</p> <p><b>recall</b> 9:23 15:15 16:18 21:12 37:2 43:12,14,25 45:14 50:5,13 56:10 57:1 69:19 71:20 81:2 96:19,21 97:10 103:2 105:8 106:16, 22 110:22 112:19 124:2,7 125:10 126:25 127:25 128:2,3 129:5 133:22 138:10 139:18,22,23 140:5, 16 141:3,8 142:6,9, 16 143:5,10,17 145:1,3,22,25 147:5,17,19,25 148:7,15,21,23,24 149:2,3,5,25 150:22 151:18 153:10 154:10 155:23,25 156:22 160:13 165:10 166:6 170:13 171:18 178:21,25 183:1,3,4 188:18 189:13,16, 17,20,25 190:14,18 192:8 193:16 196:7</p> <p><b>receipt</b> 87:25 88:8,11,13 91:8,9 110:8 121:6 123:23</p>	<p><b>receipts</b> 64:10 87:13</p> <p><b>receive</b> 10:2 19:19,21 44:6,22 48:11 79:10 96:15, 16 106:7 109:8 172:3 179:2</p> <p><b>received</b> 10:3 44:11,13 54:5 59:23 61:9,10 73:15,23 91:22 105:3,22 106:15 109:6,24 145:4,23,25 151:13 172:8 178:7,18 179:5,8,23</p> <p><b>receiving</b> 9:24 145:1 147:19,25 148:2 178:21,25</p> <p><b>recent</b> 57:19</p> <p><b>Recently</b> 40:2</p> <p><b>recess</b> 53:10 76:2 92:16 189:4</p> <p><b>recirculate</b> 49:1</p> <p><b>recirculates</b> 55:3 194:7</p> <p><b>recirculating</b> 48:25 49:9,10,11 55:9</p> <p><b>recirculation</b> 48:15,18,21,25 49:17,22,25 50:4 51:16 52:12,17 55:2 193:24</p> <p><b>recognize</b> 15:2 20:25 63:2 76:16 87:3 143:24</p> <p><b>recollect</b> 140:15</p> <p><b>recollection</b> 58:11 66:11 70:8 74:22 78:5 86:21 92:4,8 93:2,8 94:5 118:1 155:6 178:5 179:19 181:5</p> <p><b>recommend</b> 56:24</p> <p><b>recommended</b> 56:23 134:13,15</p>
---	--	--	--	---



MICHAEL MCMAHON

November 17, 2016  
Index: record..Ridge

<b>record</b> 6:17 22:23 45:13 50:19,21 53:12 68:12 76:1,4 92:18,24 117:8,18 123:5 124:14 148:20 189:6  <b>records</b> 50:25  <b>recover</b> 17:6  <b>recreate</b> 109:21  <b>red</b> 89:1,3 124:23, 25 125:1,3,6,7 147:1  <b>redone</b> 48:1  <b>refer</b> 17:24 26:13 64:11 75:18 102:19 123:3 170:21  <b>reference</b> 154:21  <b>referenced</b> 175:10  <b>referred</b> 93:1 95:21 110:12 195:12  <b>referring</b> 12:11 13:15 17:18 21:22 41:21 58:14,23 78:15 94:1,15 95:12 110:6 136:5 147:8 149:19 164:23 165:15  <b>refers</b> 13:5 60:20 96:1  <b>reflected</b> 88:13 112:22 113:19 114:1 141:23 148:3 193:14  <b>reflects</b> 179:23  <b>refresh</b> 58:10 66:11 70:8 74:22 78:5 86:21 92:3,8 93:2,7 94:4 155:6 178:4 179:18 181:5  <b>refreshes</b> 118:1  <b>regard</b> 197:1  <b>regular</b> 25:16	<b>reimbursed</b> 108:8 110:14 112:18,25 113:13 124:4 151:10 159:10 178:6,8 181:6,8,9  <b>reimbursemen</b> <b>t</b> 103:5 106:8,14 110:17 113:18 176:17  <b>related</b> 15:11 21:2 23:21 49:14 50:17 56:11 98:13 100:16 101:5,14,21 102:14 107:16 115:13 176:20  <b>relation</b> 56:14  <b>relatives</b> 66:2  <b>remaining</b> 93:15  <b>remediation</b> 110:13 181:6  <b>remember</b> 6:9 7:21 8:13 10:6 14:15,22 16:8,19,21 18:19 21:16,18 27:15 32:10 35:23 36:7 50:2 58:12 66:9 75:1 78:24 84:12 88:25 96:24 123:11 133:23 142:10,13 146:5 148:6,19 149:9 152:22 160:5,9 166:17 179:25 181:7  <b>reminder</b> 8:25  <b>remodeling</b> 71:5 73:17 74:7,21 161:17  <b>remove</b> 122:14, 18 126:9 127:7,14 132:1 160:24 167:3  <b>removed</b> 42:2 67:5 88:24 89:11,13 129:4 138:16,17,22 139:3,4,6,11,16,24 140:4,13,18 141:6, 12 160:4,11	<b>renew</b> 7:20  <b>renewed</b> 123:20  <b>rep</b> 146:2  <b>repair</b> 15:25 41:12 63:7,22 70:22 71:11 72:9,18 77:15 94:22 99:21 104:17 105:1,4 107:22 109:10 122:16 134:23 161:21 163:23 165:11,16  <b>repaired</b> 33:15 44:16 63:23 64:18 80:19 122:21 156:23 164:3,7,17, 19  <b>repairs</b> 42:23 71:3 72:4,14 77:4, 11 79:7 94:16,18 99:7,9 104:3,6,12 120:20 134:7 173:6  <b>repeat</b> 39:23 187:7,25  <b>repipe</b> 39:17 73:4  <b>repiped</b> 39:11 41:18  <b>repiping</b> 40:21 104:18  <b>replace</b> 66:21 67:10 70:21 72:17 113:8 125:24 127:8 133:14,17 161:22 173:20 185:25 186:8,10,13  <b>replaced</b> 50:3,4 52:5,11,13 53:1 55:9 56:3,5,7,9,16, 18,22,25 57:4 64:2 67:6 122:21 124:16 125:8 133:13 139:7, 11 161:24 186:1  <b>replacement</b> 50:15,18  <b>replacing</b> 71:3 104:15 134:13 192:3  <b>replumb</b> 113:3	173:17  <b>replumbed</b> 55:10 56:8 67:25 68:6 89:12 173:14, 24  <b>replumbing</b> 41:13 69:15 90:7 112:22 173:10,12  <b>report</b> 175:25  <b>reporter</b> 5:12,19, 25 6:10 155:21  <b>represent</b> 12:10 97:1,3 174:13 180:25  <b>representative</b> 17:13,14,18,25 18:3 88:15 168:18  <b>representing</b> 13:23  <b>reproduced</b> 93:11  <b>request</b> 59:24 105:23 150:23  <b>requested</b> 187:10 188:3 195:21  <b>requesting</b> 116:17,18 176:16  <b>requests</b> 169:6  <b>research</b> 15:16 121:5 148:8 149:4 189:10,16,21 190:4  <b>researched</b> 64:9  <b>researching</b> 14:12 146:16 149:12  <b>residence</b> 42:13 73:4  <b>resident</b> 23:22  <b>residential</b> 30:1, 9 31:25 38:25 187:22  <b>respect</b> 93:10	<b>responds</b> 97:22  <b>response</b> 98:1 148:2 152:10 154:20  <b>responses</b> 6:13 9:18 96:3 97:4 154:14  <b>rest</b> 80:5 82:10 97:22 129:17 168:6  <b>restoration</b> 65:15 109:12 111:9 161:4 180:7,15  <b>result</b> 63:24 107:17 126:23 127:19 128:19 131:11 132:11 143:6 153:2,11 154:1 157:13 158:23 159:1 161:3 165:1,19 166:19 169:17,22 172:9,12  <b>resulted</b> 189:22  <b>results</b> 191:10  <b>retain</b> 89:22  <b>retained</b> 79:13 89:24 93:4  <b>retention</b> 16:17  <b>retire</b> 25:13  <b>retired</b> 24:14,15 25:15,17  <b>return</b> 144:17 145:7 175:25  <b>reverse</b> 197:4  <b>review</b> 9:17,20 18:14 19:11 20:17 59:3 178:10 189:11  <b>reviewed</b> 18:6 21:1  <b>reviewing</b> 108:18 190:15  <b>reward</b> 16:23  <b>Rick's</b> 71:25  <b>Ridge</b> 98:8
---	--	---	--	--

MICHAEL MCMAHON

November 17, 2016  
Index: right-hand..split

<b>right-hand</b> 60:10 61:24 62:11 63:18 91:8 146:2 175:24 <b>rings</b> 47:9 <b>Rio</b> 22:24 23:7 26:18 30:2 34:4,5 <b>Rob</b> 28:1 <b>Robert</b> 27:4,18 <b>role</b> 13:19 18:2 <b>Roofing</b> 71:4 73:17 74:7,21 <b>room</b> 6:4 29:8 119:18 130:6 167:9, 10,11,16,19,23,24 168:2,3,4 182:12, 13,22 <b>rooms</b> 47:3 <b>ruined</b> 115:18 132:17 <b>run</b> 47:3 <b>running</b> 66:4 85:10 <b>runs</b> 80:11 <hr/> <b>S</b> <hr/> <b>sales</b> 146:2 <b>sample</b> 144:22 148:6 <b>sampled</b> 90:22 <b>samples</b> 87:10 <b>saturated</b> 115:20 160:22 163:5 167:13 <b>Sauder</b> 15:6,7,9, 14 157:25 <b>saved</b> 149:10 160:6 <b>saving</b> 127:4 160:9 <b>scenes</b> 148:14	<b>school</b> 23:25 24:4,5 181:1 <b>scope</b> 72:25 <b>SD</b> 168:22 <b>seal</b> 43:19 <b>section</b> 20:16 73:1 82:18,19 83:12 126:12 139:7 <b>seek</b> 59:25 110:17 115:15 <b>seeked</b> 18:4 <b>seeking</b> 96:13 103:5,24 108:11 110:9 113:18 114:5, 8 116:12 117:3 181:10 <b>seeped</b> 167:7 <b>sees</b> 77:5 <b>sells</b> 82:1 192:19 <b>semester</b> 24:7 <b>send</b> 61:7 88:19 89:5,9 96:12 142:23 143:7,9 145:19 149:11 150:21 151:14,17 152:13 159:4 166:9 169:6 <b>sending</b> 91:10 109:16 149:3 165:24 <b>senior</b> 24:24 <b>sense</b> 39:17 <b>sentence</b> 29:25 31:16,19 176:15 <b>separate</b> 55:11, 12 173:4 <b>separately</b> 164:1 <b>September</b> 175:14 <b>sergeant</b> 24:24 <b>series</b> 58:20 <b>serves</b> 29:19	<b>service</b> 23:21 24:12 67:1 69:13 144:1 161:4 <b>services</b> 145:16 <b>set</b> 20:2 51:17 96:3 121:13 <b>setting</b> 49:6 51:21 <b>settings</b> 48:24 49:4 51:17 <b>shaded</b> 177:8 <b>shake</b> 6:11 <b>Shamberg</b> 8:1, 14,20 15:5 25:8 51:10 53:6 62:2,6 75:9,15,20,23 87:20 92:23,25 93:22 114:11,19,22 116:14 117:7,11,15 151:22,25 169:2,5, 11 174:20 181:3 187:3,6,23 188:4 191:1,15 192:18,23 194:14 195:6,10,16, 19,24 196:1,16,20 197:12,17 <b>Shamberg's</b> 93:19 <b>Shanks</b> 41:18 66:25 67:3 68:6,14 69:13 71:13,20,21 89:12 112:23 155:2 165:3,4,5,9,12,17 172:25 173:9 <b>Shanks/rick's</b> 41:14 <b>sheet</b> 99:22 <b>Sheetrock</b> 72:10 161:12,23 167:15 <b>shield</b> 33:12 50:2, 14,23 51:4 72:3 77:13 79:5,14 94:21,25 95:9,12,17 98:3,5,13,18 99:6, 17,20,25 100:8 101:14,24 103:9 104:13,22 106:2 120:16,22 121:4,7	122:23 123:15,19 124:10,14 129:11 131:5,10,12 134:24 137:18 138:3 155:13,24 157:6,18 159:3,10 165:23 166:8 169:18 <b>shipping</b> 88:6,12 109:15 113:18 <b>shop</b> 77:10 <b>shortly</b> 78:23 <b>show</b> 8:5 19:25 41:15 76:13 126:8 144:22 155:15 <b>showed</b> 33:15 126:6,7 155:24 <b>shows</b> 33:14 <b>shut</b> 43:3 194:8 <b>sic</b> 151:19 <b>side</b> 9:15 29:5 52:22 63:18 83:11 87:16 88:5,9,14 90:22 91:9 96:12 137:6 146:2 150:17 153:1,19 182:9 <b>sides</b> 90:18 <b>sight</b> 133:24 <b>sign</b> 16:16 124:2 <b>signed</b> 100:11 <b>significant</b> 57:19 <b>similar</b> 112:3,10 153:21 156:5 <b>simulator</b> 25:2 <b>single</b> 58:18 <b>sink</b> 43:13 48:11 <b>sinks</b> 29:19 47:3 85:10 <b>sir</b> 11:6 22:21 26:1 42:8,21 51:15 54:9 59:8 62:1 87:23 109:1 116:20 148:21	<b>sitting</b> 5:13 11:17 168:16 194:6 <b>situation</b> 13:23 16:1 114:16 115:7 190:12 <b>sixth</b> 162:16,19 163:22 164:7,22,24 165:1 166:19 167:1 169:17 195:12 <b>skills</b> 181:1 <b>small</b> 109:15 <b>soaked</b> 115:18 128:12 161:11,14, 20 <b>sold</b> 183:15 187:21 196:10 197:6 <b>solve</b> 75:18 <b>sort</b> 16:16,23 17:5 25:6 32:12 40:8 57:4 69:14,21 85:20 132:3 <b>sound</b> 16:6 17:10 67:21 <b>source</b> 32:5,15 <b>sources</b> 32:8 <b>South</b> 179:13 <b>speak</b> 6:7,21 155:21 <b>specific</b> 10:2 <b>specifically</b> 9:6 13:15 58:9 74:25 96:24 192:11 <b>speculation</b> 192:21 <b>splice</b> 138:8,20, 24 139:1,13 <b>spliced</b> 126:11, 13 133:8 138:25 156:16 159:19 <b>split</b> 89:6 126:2 133:10 138:19 159:15
--	---	--	--	---

MICHAEL MCMAHON

November 17, 2016  
Index: splits..today

<b>splits</b> 150:17 <b>spot</b> 105:12 106:3 134:20 137:24 <b>spray</b> 85:8 <b>sprayed</b> 118:20 <b>sprinkler</b> 48:8 <b>squish</b> 163:14 <b>stacked</b> 121:20 <b>stairs</b> 167:25 <b>stairwell</b> 168:1 <b>stamp</b> 196:14 <b>stamped</b> 125:5 <b>star</b> 63:6 <b>start</b> 20:18 59:4 80:25 127:4 175:4 <b>started</b> 14:14 19:4 41:16 78:17,21 79:7 86:22 139:19 148:8 149:12 185:7, 15 <b>starting</b> 20:12,15 53:4 57:14,15 65:20 78:16 119:4 155:19 181:15 <b>starts</b> 82:19 98:3 <b>state</b> 5:6 22:22 <b>stated</b> 47:12 74:11 77:22 93:25 186:12 <b>statement</b> 57:21 92:23 93:19 117:8 183:18 <b>states</b> 38:25 42:9 <b>stayed</b> 66:2 <b>Stephens</b> 5:5 8:24 11:1 15:8 19:25 25:9,12 51:5, 11,15,16 53:8,11 58:8 59:7 62:3,8,25 64:20 66:16 70:13 75:8,11,16,21,25 76:3,13 79:24 87:1, 22 92:12,18,22 93:16,23 114:13,21,	24 116:16 117:10, 22,24 143:17 151:23 152:1 169:4, 8,13,14 174:10,25 181:4 187:8,12 188:1,8,25 189:5 190:23 191:3,12 192:14,20 194:11 195:3,14,23 196:3, 20 197:9,19 <b>sticker</b> 11:3 <b>stipulation</b> 123:18 <b>stopped</b> 148:11 <b>storage</b> 127:15 <b>stored</b> 132:7 184:6 <b>stories</b> 29:2,3 118:22 119:21 <b>stretch</b> 53:7 <b>stuff</b> 10:5 29:11 43:19 63:10 97:20 116:3 127:12 128:8, 11 132:8,24 145:24 149:15 163:3 <b>subcontracted</b> 31:14 <b>subject</b> 93:13 95:11 97:20 144:17 195:15 <b>substantial</b> 183:13 194:21 195:1 <b>substantially</b> 26:19 31:17 <b>suggest</b> 15:24 <b>suggested</b> 74:9 <b>suggestion</b> 57:2 <b>supplied</b> 32:4 <b>supposed</b> 127:22 174:23 <b>surprise</b> 101:7 151:19,23 152:3,4	<b>switched</b> 37:21 <b>sworn</b> 5:3,19 <b>system</b> 29:19 30:1,9 31:17,25 32:19,21,24 33:3 35:15 39:1,10 41:6, 10,22 48:7,8,14 49:13,15 55:4 84:18,22 137:7 164:16 191:4,17,20, 23 192:24 193:24 194:7 <b>systems</b> 33:21 42:22 160:20 163:3 <hr/> <b>T</b> <hr/> <b>takes</b> 29:4 <b>taking</b> 5:25 7:3,4 183:1,3,4 <b>talk</b> 31:2 53:16 71:24 115:4 171:17 175:6 183:19 195:8 <b>talked</b> 8:17 10:17, 18 14:7,21 15:23 21:3 26:24 28:15 53:17 115:11 142:9, 11,20 144:1 145:15 146:8 147:3 185:4 194:17 <b>talking</b> 18:11 37:17 39:15 43:25 46:9 55:2 102:21 142:16 177:1 <b>tall</b> 118:17 122:18 <b>tank</b> 48:15,18,21, 25 49:5,17,22 50:4 51:17,18 52:5,8,12, 15,17,21,22 55:13, 16,19,25 56:5,15, 19,21 57:3,5,7 <b>teach</b> 25:6 <b>technical</b> 57:1 142:19,21 144:1 145:15 <b>technicians</b> 142:8	<b>telling</b> 14:13 36:7 52:13 84:12 <b>tells</b> 131:19 <b>temperature</b> 83:7 <b>tendency</b> 89:22 <b>Tennessee</b> 98:9 <b>term</b> 6:20 13:2 17:14,17 67:22 <b>terminology</b> 161:12 167:14 <b>terms</b> 8:21 16:19 46:21,23 150:2 <b>testified</b> 5:3 144:14 192:16,17 193:23 195:15 <b>testimony</b> 93:9 191:7,14 192:5,8 <b>Texas</b> 22:24 23:10,14,15,17,22 26:18 30:2 179:14 <b>text</b> 30:21 <b>texture</b> 167:13 <b>thing</b> 6:9,19 37:3 40:15 64:11 105:7, 25 112:20,21 113:17 139:20 146:23 156:16 177:8 196:18 <b>things</b> 6:2 9:3,5 10:3 15:18 18:20 19:11,20,21 25:21 29:19 43:23 44:8 46:10 47:4,6 66:3 72:10 94:19 100:15 101:4 115:19 116:25 128:10 146:25 157:10 161:4 165:21 169:3 180:7 <b>thinking</b> 36:16 37:22 84:9 155:22 187:15 <b>thinks</b> 96:9 <b>thought</b> 37:18 49:7 73:7 125:5	156:21 <b>thousand</b> 106:17 <b>three-fourths</b> 29:4 167:25 <b>throat</b> 115:15 <b>throw</b> 89:22 127:19 128:4 160:16 <b>thrown</b> 116:4 127:2 <b>tile</b> 167:9 168:6 <b>time</b> 21:4 22:15 35:8 36:17,23 37:4, 24 39:16 40:18 44:9 45:15 49:9 55:10 56:7,16 66:4 69:2,3 74:4 77:16 80:16,20 86:17 88:25 89:14 94:16,18,21 97:6 100:11,14 104:18 105:16 119:11 121:13,14 127:1 129:5 131:14 132:6 133:15,21 135:10 137:2 139:4,19,21 140:6 147:18,21 149:13 151:2 152:5 153:5,14 155:23,24 156:1,2 161:1 163:5,15 164:19 165:5,6,23 166:5,6, 7,22 168:17 170:2 172:15 173:16,19 190:1,12,13 191:5, 15,22 194:8 196:10, 13,14,18 <b>timeline</b> 163:17 <b>times</b> 74:24 102:17 104:25 105:17 107:13 119:14 165:6 166:11 178:15 190:17 <b>tinker</b> 29:12 <b>today</b> 5:14,21 7:6, 16 8:3 9:10,21 10:7 11:16 12:11 13:3 17:17 30:22,23
---	--	--	---	---

MICHAEL MCMAHON

November 17, 2016  
Index: today's..water

<p>40:19 51:2 58:10 62:17 75:19 86:13 94:1,9 95:22 100:4 108:21,22 114:25 115:6 117:12 141:13 169:3 179:15,16 191:3 194:6</p> <p><b>today's</b> 10:8,19, 22</p> <p><b>toilets</b> 29:19</p> <p><b>told</b> 34:22,25 35:4, 5 36:2 37:2,16 38:3, 16 55:18 68:10,14 69:22 74:2 84:10 135:5 142:7 147:5 150:16 151:24 172:16 185:19 191:23</p> <p><b>top</b> 11:12,19 17:6 29:6 57:18 60:23 61:2,23 63:6,21 64:23 66:19 70:3,18 72:16 76:17 77:20 80:2 81:10 87:6 95:10 110:23 111:16,18,20 129:24 144:8 170:25 175:17,18 182:14</p> <p><b>town</b> 50:12 155:2, 8 156:10,14,20 159:4,7 165:2,16 166:12</p> <p><b>towns</b> 166:15</p> <p><b>toys</b> 132:8</p> <p><b>tpmac04</b> 171:1</p> <p><b>tpmac04@ sbcglobal.net</b> 61:25</p> <p><b>track</b> 61:19 123:25</p> <p><b>tracking</b> 60:12, 19</p> <p><b>Trail</b> 22:24 23:8 26:7 32:17 33:9 37:13 38:8 41:11,23 43:21 44:24 45:12,</p>	<p>17 47:22 48:4 49:19 54:14 55:10,16,23 74:23 82:5 92:5 107:17 113:4 118:6 187:1 190:19 191:4, 16 197:2</p> <p><b>training</b> 25:7</p> <p><b>transaction</b> 43:22 44:12 45:1,3</p> <p><b>transcript</b> 6:4</p> <p><b>transferred</b> 81:4</p> <p><b>treated</b> 32:5</p> <p><b>treatment</b> 32:14</p> <p><b>trial</b> 17:3 31:2 115:5</p> <p><b>trip</b> 15:25</p> <p><b>trouble</b> 190:2</p> <p><b>true</b> 32:6 40:11 72:20 75:8 84:15 165:18 179:15 193:25</p> <p><b>trust</b> 152:10</p> <p><b>trusting</b> 171:7</p> <p><b>truthful</b> 5:20 7:7</p> <p><b>tube</b> 147:1,4</p> <p><b>tubing</b> 13:10 21:21,25 32:22,25 33:3,25 35:1,10,13 37:1,13 39:2 40:16 46:22 47:2,7,13 54:13 56:12,15 57:16 67:13 138:9 193:21</p> <p><b>turn</b> 42:8 46:10 121:23 194:3,15</p> <p><b>turned</b> 48:11 122:19,20 133:7</p> <p><b>turns</b> 40:9 55:7</p> <p><b>TV</b> 182:22</p> <p><b>two-page</b> 143:21</p> <p><b>TX</b> 86:5</p>	<p><b>type</b> 12:20 32:15 36:8 37:3 74:5 127:21 133:25 138:14</p> <p><b>typed</b> 149:14 189:17,18</p> <p><b>types</b> 9:3</p> <p><b>typewritten</b> 94:9</p> <p><b>typical</b> 192:23</p> <p><b>typically</b> 43:5 85:14 124:5</p> <hr/> <p><b>U</b></p> <hr/> <p><b>uh-huh</b> 11:4 22:9 62:13 112:2 117:14 144:10 169:4 180:20 195:6</p> <p><b>underneath</b> 11:20 73:1 118:14 153:22 160:22,24 168:10</p> <p><b>understand</b> 5:12,23 6:7,19,20 9:3 10:16 12:12 13:6,9,11,17,19 17:13 47:1 48:13,15 53:12 76:9 81:20 82:21,22 92:20 107:8 136:24 148:14 151:6 163:17 189:6</p> <p><b>understanding</b> 55:5 192:18</p> <p><b>understood</b> 7:1</p> <p><b>unit</b> 161:8</p> <p><b>unplug</b> 42:24</p> <p><b>Uponor</b> 67:21</p> <p><b>upper</b> 60:10 61:23 62:11 145:10 175:24</p> <p><b>upstairs</b> 29:9 182:7,22</p> <p><b>USAA</b> 95:11 99:18 100:20,21,23,</p>	<p>25 106:13,15 107:11 111:1,11 112:18 168:17 169:21 170:14 171:3,7,12,15,20 172:8 176:14,20 178:6,22 179:1,19 183:2</p> <p><b>utility</b> 32:12</p> <hr/> <p><b>V</b></p> <hr/> <p><b>values</b> 34:12</p> <p><b>vent</b> 129:20 130:2</p> <p><b>vents</b> 129:19 133:6</p> <p><b>verbal</b> 6:13</p> <p><b>Verbally</b> 84:12</p> <p><b>verbatim</b> 16:21</p> <p><b>vertical</b> 136:20</p> <p><b>video</b> 169:14,15</p> <p><b>Vietnam</b> 24:9</p> <p><b>view</b> 28:25</p> <p><b>visit</b> 102:24 105:19 166:2,15</p> <p><b>visits</b> 103:13</p> <p><b>Vista</b> 22:24 23:7 26:18 30:2 34:4,5</p> <p><b>volunteer</b> 25:20 174:23</p> <p><b>volunteered</b> 134:10</p> <p><b>volunteering</b> 156:22</p> <hr/> <p><b>W</b></p> <hr/> <p><b>W-A-R-D</b> 27:4</p> <p><b>wait</b> 6:5,6 174:20 194:4</p> <p><b>waited</b> 149:10</p>	<p><b>waive</b> 93:14</p> <p><b>waived</b> 93:9</p> <p><b>waiver</b> 93:13</p> <p><b>waiving</b> 97:21</p> <p><b>walk</b> 168:1</p> <p><b>walked</b> 163:14</p> <p><b>walking</b> 118:16</p> <p><b>wall</b> 136:9,19 160:21 162:7 163:12 164:20 165:21 167:2,5 168:9,11</p> <p><b>walls</b> 64:3 65:19 85:10,14,23</p> <p><b>wanted</b> 35:3 41:14 68:10 69:10 73:18 135:7 148:12 173:13 193:19</p> <p><b>wanting</b> 152:7</p> <p><b>Ward</b> 27:4,5,18, 20,23 28:11,15,18, 22 30:4,10,16 31:19 32:17 43:22 44:23 49:13 184:21</p> <p><b>Wards</b> 28:1</p> <p><b>warning</b> 187:21 188:11 192:6 193:10,11,20,21 196:11,14 197:15</p> <p><b>warranty</b> 69:14, 17,20 74:19 79:4 98:20 149:13,24 150:2</p> <p><b>watch</b> 125:13</p> <p><b>water</b> 14:13 22:8 31:24 32:1,4,5,9,14, 15 33:10 43:3,13 48:10,12,19 49:2,8 52:6,21,24 54:7,8 55:3,6 56:10 57:6 65:21 83:7,11 84:17,25 85:2,3 118:12,13 119:10, 15,16 121:23 122:4, 11,14,19 128:7,13 130:4,5,11 133:7</p>
--	--	---	---	--

MICHAEL MCMAHON

November 17, 2016  
Index: watering..Zurn

136:10 137:5,6 150:17 153:20 158:8 160:24,25 161:20 162:7 163:2, 13 165:21 167:5,12, 13 168:16 170:3 177:23 180:7 181:6 193:24 194:2,15 <b>watering</b> 48:7 <b>waterlogged</b> 115:18 132:15 160:19 <b>waters</b> 77:11 <b>ways</b> 124:7 <b>website</b> 15:20 189:15,17 190:15 <b>websites</b> 15:16 <b>week</b> 66:6 <b>weeks</b> 119:5 <b>west</b> 50:12 155:2, 8 156:10,14,20 159:4,7 165:2,16 182:9 <b>wet</b> 115:16 127:22 167:12 182:18 <b>wife</b> 26:4 27:14 30:21 42:17 45:13, 16 53:16 120:4 130:23 137:12 143:13 154:4,24 158:25 174:19 179:2,7 181:8 <b>wife's</b> 60:17 111:6 155:1 <b>win</b> 17:3 <b>wire</b> 138:9 <b>withstand</b> 83:7 <b>woman's</b> 142:15 <b>Wonderful</b> 24:11,20 25:1,12 26:13 <b>wood</b> 128:12 132:16 160:21,22, 23,24 161:7 163:3	<b>word</b> 13:1 14:14 37:2 71:23 74:15,17 129:20 142:5 152:9 <b>work</b> 6:5 25:20 30:11 31:14 43:6 65:17 69:15 72:1, 22,25 74:16 79:11, 16 93:7 94:22 100:25 102:3 104:21,25 107:22 112:22 113:12 123:15 137:22 138:2 157:2 159:9 172:21 178:6 191:17 <b>worked</b> 25:2 48:8 49:18 74:7 80:11 180:2 191:9 <b>working</b> 24:18 41:16 49:25 53:2 80:20 <b>worldwide</b> 188:18 <b>worried</b> 66:4 <b>worth</b> 107:5 114:21 115:1,6 116:6 170:5 <b>Wow</b> 20:4 65:6 <b>wrapped</b> 85:7 118:20 125:13 <b>write</b> 61:1 80:24 81:12 109:18 140:25 <b>writes</b> 144:22 <b>writing</b> 80:25 112:14 169:6 <b>written</b> 9:19,24 21:8 27:14,15 58:2, 4 78:12,19 83:17 86:17 172:2 176:14 177:19 <b>wrong</b> 40:14 44:8 142:25 <b>wrote</b> 61:20 63:11 64:10 72:19 75:1 77:10 80:18,21 81:13 111:11	140:12 <hr/> <b>Y</b> <hr/> <b>y'all</b> 150:19 195:9 <b>year</b> 18:17 19:3 23:24 24:2 25:13 27:25 28:4 36:14 50:7 78:13,14,20 90:17 164:5 185:9, 15 <b>years</b> 7:19 16:7 18:21 19:4 23:5,12 24:16 34:2 35:19 36:18,19 43:11 44:3 53:3 96:23 116:3 121:8 145:23 149:2 187:15 191:8 <hr/> <b>Z</b> <hr/> <b>Z-U-R-N</b> 73:8 <b>Zip</b> 22:24 <b>zoom</b> 73:7 <b>Zurn</b> 73:5,12 74:3
---	---	---